

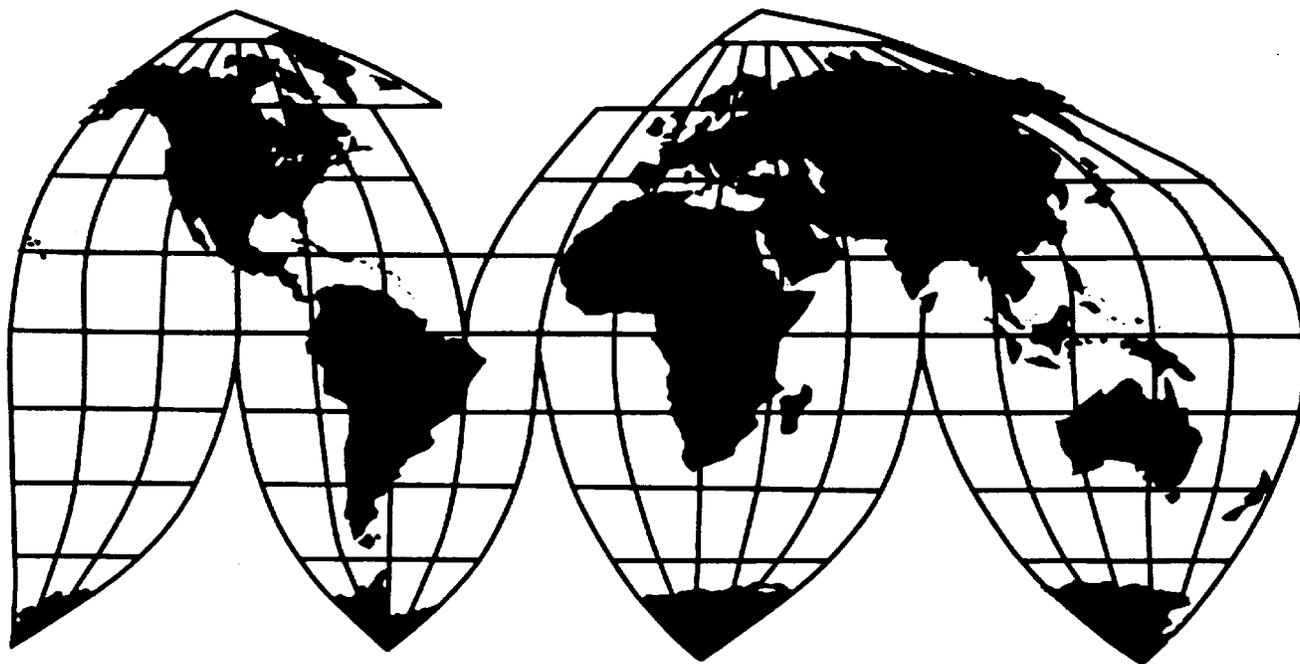
# Non-Frozen Concentrated Apple Juice From China

Investigation No. 731-TA-841 (Review)

Publication 3799

September 2005

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

## COMMISSIONERS

**Stephen Koplan, Chairman**  
**Deanna Tanner Okun, Vice Chairman**  
**Jennifer A. Hillman**  
**Charlotte R. Lane**  
**Daniel R. Pearson**  
**Shara L. Aranoff**

---

Robert A. Rogowsky  
*Director of Operations*

---

### *Staff assigned*

Joanna Lo, *Investigator*  
Alfred Dennis, *Industry Analyst*  
Charles St. Charles, *Attorney*  
George Deyman, *Supervisory Investigator*

**Address all communications to**  
**Secretary to the Commission**  
**United States International Trade Commission**  
**Washington, DC 20436**

# U.S. International Trade Commission

Washington, DC 20436

*www.usitc.gov*

## Non-Frozen Concentrated Apple Juice From China

Investigation No. 731-TA-841 (Review)



Publication 3799

September 2005



## CONTENTS

	<i>Page</i>
Determination .....	1
Views of the Commission .....	3
Information obtained in the review .....	I-1
Introduction .....	I-1
Background .....	I-1
The original investigation .....	I-2
Commerce’s administrative reviews .....	I-2
Commerce’s final results of expedited review .....	I-2
Distribution of Continued Dumping and Subsidy Offset Act funds to affected domestic producers .....	I-4
The product .....	I-5
Scope and domestic like product .....	I-5
Description and uses .....	I-5
Manufacturing process .....	I-5
The industry in the United States .....	I-7
U.S. producers .....	I-7
U.S. producers’ capacity, production, and U.S. shipments data .....	I-8
U.S. imports and apparent U.S. consumption .....	I-9
U.S. imports .....	I-9
Apparent U.S. consumption and market shares .....	I-12
The industry in China .....	I-13

### Appendix

A. <i>Federal Register</i> notices and the Commission’s statement on adequacy .....	A-1
---	-----

**Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified by the use of \*\*\*. Final identification of confidential information is in the public version of the staff report.**



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-841 (Review)

NON-FROZEN CONCENTRATED APPLE JUICE FROM CHINA

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (Commission) determines,<sup>2</sup> pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

## BACKGROUND

The Commission instituted this review on May 2, 2005 (70 F.R. 22694) and determined on August 5, 2005 that it would conduct an expedited review (70 F.R. 51365, August 30, 2005).

---

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

<sup>2</sup> Commissioner Shara L. Aranoff did not participate in this determination.



## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### 1. BACKGROUND

In May 2000, the Commission determined that an industry in the United States producing non-frozen concentrated apple juice (NFCAJ) was materially injured by reason of imports from China of NFCAJ that were being sold at less than fair value.<sup>2</sup> On June 5, 2000, Commerce published an antidumping duty order covering the subject merchandise from China.<sup>3</sup>

On May 2, 2005, the Commission instituted this review pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), to determine whether revocation of the antidumping duty order on non-frozen concentrated apple juice (“NFCAJ”) from China would be likely to lead to continuation or recurrence of material injury to the domestic industry.<sup>4</sup> On August 5, 2005, the Commission determined that the domestic interested party group response to its notice of institution was adequate.<sup>5</sup> The Commission did not receive a response from any respondent interested party and therefore determined that the respondent interested party group response to the notice of institution was inadequate.<sup>6</sup> In the

---

<sup>1</sup> Commissioner Shara Aranoff did not participate in this review.

<sup>2</sup> Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final), USITC Publication 3303 (May 2000). The investigation was initiated in response to a petition filed on June 7, 1999 on behalf of domestic producers Coloma Frozen Foods, Inc. (“Coloma”), Coloma, Michigan; Green Valley Apples of California (“Green Valley”), Los Angeles, California; Knouse Foods Cooperative, Inc. (“Knouse”), Peach Glen, Pennsylvania; Mason County Fruit Packers Cooperative (“Mason County”), Ludington, Michigan; and Tree Top, Inc. (“Tree Top”), Selah, Washington.

<sup>3</sup> 65 Fed. Reg. 35606 (June 5, 2000). Commerce made a negative determination in its original investigation with respect to one producer of the merchandise in China, Yantai North Andre and, therefore, imports from that company were not covered by the antidumping duty order as originally issued. INV-X-091 at VII-1. Since then, Commerce has revoked the order with respect to five other Chinese producers: Shaanxi Haisheng, Sanmenxia Lakeside, Shandong Zhonglu et. al, Yantai Oriental, and Qingdao Nannan. CR/PR at Table I-1 n.5.

<sup>4</sup> 70 Fed. Reg. 22694 (May 2, 2005).

<sup>5</sup> See Explanation of Determination on Adequacy, Confidential Staff Report, INV-CC-134 (Aug. 31, 2005) (“CR”) at Appendix A. The Commission received one submission in response to its notice of institution for the subject review, filed by the U.S. Apple Association on behalf of Tree Top and Naumes Concentrates, Inc. (“Naumes”), Medford, Oregon, two major U.S. producers of NFCAJ (collectively, “domestic producers”). Tree Top and Naumes are believed to have accounted for approximately \*\*\* percent of U.S. NFCAJ production in 2004. Domestic interested parties’ response to the notice of institution (June 21, 2005) (“domestic interested parties’ response”) at 9.

<sup>6</sup> Explanation of Determination on Adequacy. The absence of any respondent interested party response to the notice of institution left the Commission without the preliminary respondent information requested in the notice of institution and without an indication that any respondent firm or entity would be willing to participate by providing information requested by the Commission if the Commission were to conduct a full review. See 70 Fed. Reg. at 22695 (request for interested party statement of willingness to participate).

absence of an adequate respondent interested party group response, the Commission determined to conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930, as amended.<sup>7 8</sup>

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”<sup>9</sup> The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>10</sup>

In the final results of its expedited sunset reviews, Commerce defined the imported merchandise within the scope of the orders as follows:

all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this investigation are: frozen concentrated apple juice; non-frozen concentrated apple juice that has been fermented; and non-frozen concentrated apple juice to which spirits have been added.<sup>11</sup>

This merchandise is currently classifiable under statistical reporting numbers 2009.79.00 and 2106.90.52 of the Harmonized Tariff Schedule of the United States (“HTS”) and enters free of duty under the column 1-general rate, applicable to China.<sup>12</sup>

In the original determination, the Commission defined the domestic like product as NFCAJ, coextensive with Commerce’s scope.<sup>13</sup> In these reviews, the domestic producers agree with the definition

---

<sup>7</sup> 19 U.S.C. § 1675(c)(3).

<sup>8</sup> See Explanation of Determination on Adequacy, Confidential Staff Report, INV-CC-134 (Aug. 31, 2005) (“CR”) at Appendix A.

<sup>9</sup> 19 U.S.C. § 1677(4)(A).

<sup>10</sup> 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>11</sup> CR at I-6, PR at I-5.

<sup>12</sup> According to Commerce, the written description provided above remains dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes.

<sup>13</sup> Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final), USITC Pub. 3303 at 4-5 (May 2000). The Commission declined to define the domestic like product beyond Commerce’s scope to include single strength apple juice and frozen concentrated apple juice, together referred to as “retail apple juice.” The Commission based that determination on the physical differences between NFCAJ and retail apple juice; the fact that 35 percent of domestic NFCAJ was not used to produce retail apple juice; the limited commercial interchangeability between NFCAJ and retail apple juice; the additional processing steps needed to produce NFCAJ from single strength apple juice; the use of different manufacturing technology by certain domestic producers for removing juice from apples for NFCAJ versus retail apple juice; and the different channels of distribution through which NFCAJ and retail apple juice are sold. Id. Although Commerce had broadened the scope of the investigation in its final determination to include NFCAJ that has been fortified with vitamins or minerals, there was no U.S. production of fortified NFCAJ and the Commission, therefore, found that such a product could not be considered a

(continued...)

of the domestic like product in the original investigation.<sup>14</sup> No party has expressed disagreement with that domestic like product definition, and no new information suggests that it should be revisited. Therefore, for the reasons stated in the original determination, we continue to define the domestic like product as NFCAJ, coextensive with the scope definition.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>15</sup> We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each case.<sup>16</sup>

In the original investigations, the Commission defined the domestic industry as all producers of NFCAJ.<sup>17</sup> No party disagrees with this definition of the domestic industry, and no new facts have been presented to warrant a different definition. As in the original investigation, we do not include apple growers in the definition of the domestic industry,<sup>18</sup> and we do not exclude any domestic producer of

---

<sup>13</sup> (...continued)

separate domestic like product. Accordingly, as noted, the Commission found a single domestic like product, NFCAJ, coextensive with Commerce’s scope. USITC Pub. 3303 at 5.

<sup>14</sup> Domestic Producers’ Response to Notice of Institution at 10.

<sup>15</sup> 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>16</sup> Sandvik AB v. United States, 721 F. Supp. 1322, 1331-1332 (Ct. Int’l Trade 1989), aff’d without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int’l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, *e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int’l Trade 1992), aff’d without opinion, 991 F.2d 809 (Fed. Cir. 1993); Allied Mineral Products, Inc. v. United States, Slip. Op. 04-139 at 4 (Ct. Int’l Trade Nov. 12, 2004). The Commission also has considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, *e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14 n.81.

<sup>17</sup> Id. at 5.

<sup>18</sup> In the original investigation, the Commission found that circumstances that would permit inclusion of growers of the raw agricultural product (apples) in the domestic industry for the processed product (NFCAJ) (19 U.S.C. 1677(4)(E)(iv)) were not present and, therefore, the Commission did not include apple growers in the domestic industry. USITC Pub. 3303 at 6.

NFCAJ from the domestic industry under the statute's related-party provision.<sup>19</sup> Accordingly, we continue to define the domestic industry as all producers of NFCAJ.

### **III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF ANTIDUMPING DUTY ORDER IS REVOKED**

For the reasons stated below, we determine that revocation of the antidumping duty order on NFCAJ from China would be likely to lead to continuation or recurrence of material injury to the domestic industry producing NFCAJ within a reasonably foreseeable time.

#### **A. Legal Standard In a Five-Year Review**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."<sup>20</sup> The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."<sup>21</sup> Thus, the likelihood standard is prospective in nature.<sup>22</sup>

---

<sup>19</sup> The Commission did not exclude any producers from the domestic industry under the related party provision in its original investigation. 19 U.S.C. § 1677(4)(B). Two producers had directly imported subject apple juice concentrate during the period considered in the original investigation, but the quantities imported were small in absolute terms and relative to each producer's production. Memorandum INV-X-091 (Apr. 28, 2000) (Confidential Staff Report). With respect to other domestic producers that had purchased subject imports but had not themselves imported subject merchandise, the Commission found that they were not related parties because none was responsible for a predominant portion of a significant importer's imports of the subject merchandise. USITC Pub. 3303 at 7-8; *id.* at 8 n. 36.

Domestic producers in this review indicate that, to the best of their knowledge, no domestic producer is related to any Chinese producers of subject merchandise. Domestic Producers' Response to Notice of Institution at 7. Tree Top reports, however, that it imported \*\*\* gallons of subject NFCAJ from China in 2004. *Id.* at Appendix II. Tree Top accounted for \*\*\* percent of total domestic production in 2004 and \*\*\* percent of total U.S. imports of subject merchandise from China in that year. Tree Top's imports were equivalent to \*\*\* percent of Tree Top's production of \*\*\* gallons in 2004. *Id.* at 9 and Appendix II. While recognizing that Tree Top's imports from China were \*\*\*, we find that Tree Top's position as \*\*\*, and the lack of evidence to suggest its focus is not on domestic production, indicate that appropriate circumstances do not exist to exclude Tree Top from the domestic industry.

<sup>20</sup> 19 U.S.C. § 1675a(a).

<sup>21</sup> SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." *Id.* at 883.

<sup>22</sup> While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>23</sup>

24 25 26 27 28

---

<sup>23</sup> See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>24</sup> Chairman Koplan agrees with the Court that “‘likely’ means ‘likely’ . . .” Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int’l Trade April 29, 2002). Because Chairman Koplan also agrees that the term “likely” as used in the statute is not ambiguous, he does not believe that the Commission need supply a synonym for it. Nevertheless, were Chairman Koplan to select a synonym for “likely,” he would accept the Court’s conclusion that “likely” is best equated with “probable,” and that it does not mean “possible.” If some event is likely to happen, under common usage of the term, it probably will happen. If one considers the term “probably” to be tantamount to “more likely than not,” then in the context of a sunset review such as this one, upon revocation of the respective orders either injury probably will continue or recur (more likely than not) or it probably will not continue or recur.

<sup>25</sup> Vice Chairman Okun notes that consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” to mean “probable” See Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int’l Trade April 29, 2002). However, she will apply the Court’s standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See also Dissenting Views of Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson concerning the “likely” standard; Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 731-TA-707-709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

<sup>26</sup> Commissioner Hillman interprets the statute as setting out a standard of whether it is “more likely than not” that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of “probable” that the Court intended when the Court concluded that “likely” means “probable”. See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term “Likely,” in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

<sup>27</sup> Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

<sup>28</sup> While, for purposes of these reviews, Commissioner Pearson does not take a position on the correct interpretation of “likely,” he notes that he would have made the same determination under any interpretation of “likely” other than equating “likely” with merely “possible.” See Commissioner Pearson’s dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>29</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping investigations].”<sup>30 31</sup>

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>32</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>33</sup>

## **B. Conditions of Competition**

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>34</sup>

In the original investigation, the Commission identified several conditions of competition pertinent to its analysis of the U.S. markets for NFCAJ. It observed that demand for NFCAJ was driven by the demand for retail apple juice (single-strength and frozen concentrated), which accounted for two-thirds of NFCAJ’s downstream use, with much of the remainder used primarily in blended juices.

Apparent U.S. consumption of NFCAJ increased in the original investigation from 317,573 short tons in 1997 to 340,844 short tons in 1999. Apparent U.S. consumption of NFCAJ has increased since

---

<sup>29</sup> 19 U.S.C. § 1675a(a)(5).

<sup>30</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>31</sup> In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

<sup>32</sup> 19 U.S.C. § 1675a(a)(1).

<sup>33</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption determinations with respect to the subject antidumping duty findings. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>34</sup> 19 U.S.C. § 1675a(a)(4).

the original investigation to \*\*\* short tons in 2004.<sup>35</sup> In the original investigation, U.S. producers and subject imports from China both gained market share in the context of the growing market, while the share of the market held by nonsubject imports fell.<sup>36</sup>

In this review, in the context of a still larger market, U.S. producers' share of the market was only \*\*\* percent in 2004, compared with a share of 24.6 percent in 1999.<sup>37</sup> Nonsubject imports from countries other than China also have lost market share since the original investigation, accounting for only \*\*\* percent of the market in 2004 compared with a share of 65.3 percent in 1999.<sup>38</sup> Meanwhile, the market share of imports of NFCAJ from China increased to \*\*\* percent in 2004, compared with a share of 10.2 percent in the original investigation.<sup>39</sup>

From 1997 to 1999, domestic NFCAJ capacity decreased from 122,087 short tons to 119,545 short tons.<sup>40</sup> Of the nine domestic producers that participated in the original investigation, four – Green Valley Processors (“Green Valley”), Bakersfield, CA; Hi-County, Selah, WA; Sun Met, Del Rey, CA; and Washington Frontier Juice, Prosser, WA – no longer produce NFCAJ, and two, Naumes and Mason County, each have closed one NFCAJ processing plant. The two domestic interested parties on whose behalf a response to the Commission's notice of institution was filed, Tree Top and Naumes, account for \*\*\* percent of current domestic production of NFCAJ.<sup>41</sup>

In the original investigation, domestic production of NFCAJ decreased from 67,895 short tons in 1997 to 60,783 short tons in 1998, then increased to 79,657 short tons in 1999. Domestic production of NFCAJ has declined since the original investigation to \*\*\* short tons in 2004.<sup>42</sup>

The Commission noted in the original investigation that domestic consumption of NFCAJ exceeded the ability of the domestic industry to supply NFCAJ and that, as a result, the United States historically had been a net importer of NFCAJ. The Commission noted that nonsubject imports from southern hemisphere countries such as Argentina and Chile complemented domestic production to some extent, largely because of their different apple growing seasons. In contrast, imports from China tended to be a more direct substitute for the domestic product, since they share the same apple growing season.<sup>43</sup>

The Commission also noted in the original investigation that purchasers usually reported that Chinese and nonsubject imports of NFCAJ were comparable in acidity, and the Commission observed that both were blended with domestic concentrate to adjust the sweetness of the final product.<sup>44</sup>

---

<sup>35</sup> CR/PR at Table I-7.

<sup>36</sup> USITC Pub. 3303 at 10.

<sup>37</sup> CR/PR at Table I-7.

<sup>38</sup> CR/PR at Table I-7.

<sup>39</sup> CR/PR at Table I-7. The subject imports from China in 1999 accounted for \*\*\* percent of apparent U.S. consumption in 1999 and nonsubject imports from China (*i.e.*, those from Yantai North Andre) in 1999 accounted for \*\*\* percent of apparent consumption. The volume of subject imports in the original investigation included imports from Chinese producers or exporters that have since become nonsubject producers (*see, e.g.* CR/PR at Table I-1 n.5). Current imports from China can be considered only in the aggregate because subject Chinese producers have not participated in these reviews and, therefore, have not provided their actual, segregated data, and the record in this review does not distinguish between subject and nonsubject Chinese sources for the current period. Accordingly, we have considered data for subject and nonsubject imports from China in 1999 on an aggregate basis to permit comparison with the aggregated data for 2004.

<sup>40</sup> CR/PR at Table I-4. Domestic capacity information since 1999 is unavailable.

<sup>41</sup> CR at I-8, PR at I-6; CR/PR at Table I-3.

<sup>42</sup> CR/PR at Table I-4.

<sup>43</sup> USITC Pub. 3303 at 10.

<sup>44</sup> USITC Pub. 3303 at 11.

Based on the record evidence, we find that conditions of competition in the NFC AJ market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in these reviews, we find that current conditions in the market provide us with a reasonable basis on which to assess the likely effects of revocation of the order in the reasonably foreseeable future.

### C. Likely Volume of Subject NFC AJ Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>45</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>46</sup>

We conclude, based on the facts available,<sup>47</sup> that the volume of imports of subject NFC AJ is likely to increase significantly, and the resultant volume is likely to be significant, if the order is revoked. In the original determination, the quantity of subject imports of NFC AJ from China rose sharply from \*\*\* short tons in 1997 to \*\*\* short tons in 1998, then fell to \*\*\* short tons in 1999. The quantity of NFC AJ imports from China was 69.8 percent higher in January-May 1999 than in January-May 1998, then decreased noticeably in the second half of 1999 following the filing of the petition. Over the period of investigation, subject imports accounted for an increasingly-large share of the U.S. market.<sup>48</sup> However, the increased market share of subject imports came at the expense of nonsubject imports rather than the domestic industry, which was able to retain 20 to 25 percent of the U.S. market for NFC AJ.<sup>49</sup> Nonsubject imports decreased by almost \*\*\* percent between 1997 and 1998.<sup>50</sup> In its original determination, the Commission found the volume of the subject imports, in absolute terms and relative to consumption in the United States, to be significant.<sup>51</sup>

---

<sup>45</sup> 19 U.S.C. § 1675a(a)(2).

<sup>46</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>47</sup> See 19 U.S.C. § 1677e(a); see also, e.g., Glycine from China, Inv. No. 731-TA-718 (Review), USITC Pub. 3315 (June 2000) at 6-7.

<sup>48</sup> USITC Pub. 3303 at 11-12. As a share of the U.S. market, subject imports climbed from \*\*\* percent in 1997 to \*\*\* percent in 1998, before returning in 1999 to \*\*\* percent, and the volume in each of these years was noticeably higher than the volume in 1996, \*\*\* short tons, which accounted for \*\*\* percent of the U.S. market at the time. In terms of quantity, the volume of subject imports increased by \*\*\* percent between 1997 and 1999, and by \*\*\* percent between 1996 and 1999. In terms of market share, the volume of subject imports increased by \*\*\* percentage points between 1997 and 1999, and by \*\*\* percentage points between 1996 and 1999. Id.

<sup>49</sup> USITC Pub. 3303 at 12. U.S.-produced NFC AJ accounted for 18.5 percent of the U.S. market in 1997 and 21.9 percent in 1998, comparable to the 20.5-percent share of the U.S. market held by U.S. producers in 1996. In 1999, however, as the volume of subject imports diminished after the filing of the petition, the domestic industry expanded its share of the U.S. market to 24.6 percent. Id.

<sup>50</sup> USITC Pub. 3303 at 12. Nonsubject imports declined from \*\*\* short tons in 1997 to \*\*\* short tons in 1998, before returning in 1999 to \*\*\* short tons. Nonsubject imports' share of the U.S. market (by quantity) fell from \*\*\* percent in 1997 to \*\*\* percent in 1998, then increased in 1999 to \*\*\* percent. Id.

<sup>51</sup> USITC Pub. 3303 at 12.

In this review, total imports from China were 208,770 short tons in 2004, representing an increase of 503 percent from 1999 and accounting for \*\*\* percent of domestic consumption in 2004.<sup>52</sup> This total includes imports from China from both subject and nonsubject producers.<sup>53</sup> However, in part because the subject producers in China have declined to participate or furnish information in the review, including information on the volume of subject imports, the Commission is constrained to rely on the facts available on the record and, thus, to assess the current volume of subject imports in terms of total imports from China.

We find that a number of factors suggest that exports of NFCAJ from China to the United States would increase if the antidumping duty order were revoked. There is no specific information available on the record in this review with respect to current NFCAJ capacity or production in China because Chinese producers did not respond to the Commission's requests for data. However, domestic producers reported in their response to the Commission's notice of institution that the NFCAJ industry in China continued to expand its already substantial production capacity reported in the original investigation.<sup>54</sup> This is also supported by the significant volume of NFCAJ imports from China in 2004, which was considerably greater than both subject capacity and production in China during the original investigation.<sup>55</sup>

The record in the original investigation otherwise indicates that the Chinese producers would be able to expand capacity and production, as well as exports to the United States, if the order were revoked. The Chinese NFCAJ industry sprang up largely during the period considered in the original investigation. Of the seven producers of subject merchandise in China that responded to the Commission's foreign producer questionnaire in the original investigation, five reported no production prior to 1997, one was established in 1997, and another reported no production prior to 1998.<sup>56</sup> Accordingly, total production for the seven firms increased from 34,101 short tons in 1997 to 77,568 short tons in 1999.<sup>57</sup> Nothing on the record in this review indicates any limitation on the ability of the subject producers to further expand capacity and production.

Moreover, the record in the original investigation showed the NFCAJ industry in China to be highly export oriented. The Chinese producers reported that they exported 92.8 percent of their NFCAJ production in 1999.<sup>58</sup> Data in the original investigation also indicate that the Chinese producers can easily shift exports among export markets and quickly change the share of total exports directed to the United States. For instance, while 38.2 percent of the subject Chinese producers' NFCAJ production was exported to the United States in 1997, those exports to the United States increased to 50.8 percent of Chinese production in 1998, and then declined to only 16.5 percent in 1999.<sup>59</sup> Moreover, domestic producers maintain that, in the absence of the order, the United States market would be more attractive than some other markets because the normal U.S. import tariff on apple juice concentrate, applicable to

---

<sup>52</sup> CR/PR at Table I-7.

<sup>53</sup> As noted above, imports from Yantai North Andre were nonsubject imports at the time of the original investigation and, since the antidumping duty order was issued, Commerce has revoked the order with respect to Shaanxi Haisheng, Sanmenxia Lakeside, Shandong Zhonglu et. al, Yantai Oriental, and Qingdao Nannan. CR/PR at Table I-1 n.5.

<sup>54</sup> Domestic Producers' Response at 6.

<sup>55</sup> See INV-X-091 at Table VII-1, USITC Pub. 3303 at Table VII-1; CR/PR at Table I-6. In 1999, Chinese capacity was 77,476 short tons and Chinese production was 77,568 short tons. In contrast, U.S. imports from China totaled 208,770 short tons in 2004.

<sup>56</sup> INV-X-091 at VII-1 - VII-2; USITC Pub. 3303 at VII-1.

<sup>57</sup> Id.

<sup>58</sup> INV-X-091 at VII-3.

<sup>59</sup> INV-X-091 at Table VII-1.

China, is zero, compared with higher normal rates in other countries, such as the EU (25.5 percent) and Canada (8.5 percent).<sup>60</sup>

In sum, the record does not indicate that there would be any limitations on China's ability to increase imports into the United States if the order were revoked. Based on the available information in this review, including the determination in the original investigation, we conclude that the producers in China are significantly export-oriented and have ample production capacity and the ability to increase their shipments to the United States if the order were revoked.

Accordingly, we find that the likely volume of imports of the subject merchandise, both in absolute terms and relative to production and consumption in the United States, would be significant if the order were revoked.

#### **D. Likely Price Effects of Subject NFCAJ Imports**

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>61</sup>

In the original determination, the Commission found, *inter alia*, that domestic NFCAJ prices began to fall prior to the 1997 and 1998 crop years, as subject imports from China began entering in increasing volumes and at declining prices.<sup>62</sup> The Commission observed that purchasers had consistently ranked the price of NFCAJ as the second most important factor considered when purchasing concentrate, the most important being quality. Nearly all U.S. producers and importers stated that the domestic and Chinese NFCAJ were interchangeable and of comparable quality.<sup>63</sup> The vast majority of purchasers of NFCAJ also indicated that the U.S. and Chinese products were comparable in virtually all important factors, except price and transportation costs, with the Chinese concentrate price reported to be lower. Purchasers were increasingly willing to accept Chinese NFCAJ. More than half of the purchasers who responded to the Commission's questionnaires indicated that they had increased their purchases of Chinese NFCAJ, and many of them further attributed their increased purchases to the lower price of the subject imports.<sup>64</sup>

Prices for domestic NFCAJ trended sharply and steadily downward between early 1997 and late 1998, before increasing slightly in 1999. The price of a gallon of domestic NFCAJ fell from \*\*\* in the first quarter of 1997 to \*\*\* by late 1998, before rising in late 1999 to \*\*\*. Subject imports undersold the domestic like product and subject import prices declined steadily over the period of investigation, from \*\*\* at the beginning of the period, reaching a low of \*\*\* in 1998, and ending the period still \*\*\* at \*\*\*.

---

<sup>60</sup> Domestic Producers' Response to Notice Of Institution at 2-3, 6-7. The EU was identified in the original investigation as an important destination for the Chinese merchandise. INV-X-091 at VII-3; USITC Pub. 3303 at VII-2.

<sup>61</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

<sup>62</sup> USITC Pub. 3303 at 13.

<sup>63</sup> USITC Pub. 3303 at 13.

<sup>64</sup> USITC Pub. 3303 at 13.

Overall, domestic prices fell by \*\*\* percent from January 1997 to December 1999, while already-low Chinese prices declined by \*\*\* percent.<sup>65</sup>

Although margins of underselling decreased in the period considered in the original investigation, as domestic prices descended rapidly in response to subject import prices, subject imports undersold the domestic like product in 11 out of 12 quarters between 1997 and 1999. The company most identified as a price leader in the U.S. market was \*\*\*, an importer of subject Chinese NFCAJ. At least 6 of 10 purchasers identifying price leaders identified Chinese suppliers. Persistent underselling of the subject merchandise from China, especially in light of a market share that reached \*\*\* percent in 1998, depressed U.S. prices for NFCAJ.<sup>66</sup>

The Commission explained that it viewed the slight increase in prices after the filing of the petition to be consistent with its general observations concerning price depression by reason of the subject imports. The Commission explained that these prices, together with falling volumes of nonsubject imports, indicated that nonsubject imports did not play a significant role in the price decline experienced by the domestic industry.<sup>67</sup>

The Commission therefore found, based on the consistent underselling by subject imports and declining domestic prices, and in light of the relatively high degree of substitutability between the subject imports and the domestic like product, that underselling by the subject imports was significant and that the subject imports had depressed the prices for the domestic like product to a significant degree.<sup>68</sup>

There is no new product-specific pricing information on the record in this review.<sup>69</sup> However, as noted above, we find that China is likely to significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty order were revoked. Based on information available in this review, including the determination in the original investigation, we find that the market for the subject merchandise is price competitive. Therefore, subject imports would likely have to undersell the domestic like product in order to regain market share if the orders were revoked. The volume of subject imports at those prices, in turn, would be likely to have significant depressing and suppressing effects on prices of the domestic like product. Accordingly, we find that the likely volume of imports from China resulting from revocation of the antidumping duty order would be likely to have significant adverse price effects on domestic prices for NFCAJ.

---

<sup>65</sup> USITC Pub. 3303 at 14.

<sup>66</sup> USITC Pub. 3303 at 14.

<sup>67</sup> USITC Pub. 3303 at 14-15.

<sup>68</sup> USITC Pub. 3303 at 15.

<sup>69</sup> However, examination of the unit values of imports shows that the average unit value of NFCAJ from China in 2004 was \$771 per short ton, which was considerably lower than the average unit value of \$945 per ton for NFCAJ from other countries in 2004. CR/PR at Table I-6.

## E. Likely Impact of Subject NFCAJ Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>70</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>71</sup> As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.

In the original determination, the Commission observed that, consistent with growing demand, domestic producers increased their production, capacity utilization, shipments, and employment over the period examined. The domestic industry's share of the U.S. market also increased, from 18.5 percent in 1997 to 24.6 percent in 1999. However, as subject imports increased in 1997, 1998, and in the months preceding the filing of the petition in 1999, domestic prices continued to fall as a result of repeated underselling.<sup>72</sup> The Commission observed that the average unit value of U.S. shipments collapsed between 1997 and 1998, and continued to decrease between 1998 and 1999. As a result, the value of U.S. shipments decreased by 30.3 percent between 1997 and 1998, and recovered only partially in 1999.<sup>73</sup>

In the original investigation, the Commission found that price depression as a result of significant underselling by subject imports adversely affected the financial condition of the domestic industry throughout the period examined.<sup>74</sup>

Although their net sales by quantity increased between 1997 and 1999, declining prices caused net sales values of producers not operating in cooperatives<sup>75</sup> to decline over that period. Both the quantity and value of noncooperative domestic producers' net sales were lower in 1998 than in 1997.

---

<sup>70</sup> 19 U.S.C. § 1675a(a)(4).

<sup>71</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited sunset review, Commerce determined likely weighted-average dumping margins in the event of revocation of the antidumping duty order on NFCAJ from China as follows:

- Xian Asia, Xian Yiang, Changsha Industrial, and Shandong Foodstuffs: 3.83 percent;
- Shaanxi Machinery, Yantai Golden, and PRC-wide rate: 51.74 percent.

CR/PR at Appendix A.

<sup>72</sup> USITC Pub. 3303 at 15-16.

<sup>73</sup> USITC Pub. 3303 at 16.

<sup>74</sup> USITC Pub. 3303 at 16.

<sup>75</sup> Cooperatives process members' apples whereas non-cooperatives purchase apples as a raw material. *Id.* Cooperatives do not prepare conventional financial statements that include results of operations. *Id.* at VI-1. Because the financial results of cooperatives and non-cooperatives could not be combined, the Commission discussed them separately. USITC Pub. 3303 at 16.

Noncooperative producers' operating income margin fell in 1998, and remained at \*\*\* percent in 1999 despite declining cost of goods sold (COGS).<sup>76</sup>

The financial results of producers operating in cooperatives followed a similar trend, with net proceeds dropping in 1998 and again in 1999. Sales by quantity rose over the entire period, while net sales value in both 1998 and 1999 was below net sales value in 1997. In turn, the ratio of net proceeds paid to grower members to net sales fell from \*\*\* percent in 1997 to a low of \*\*\* percent in 1999. Net proceeds fell from \*\*\* per short ton in 1997 to \*\*\* per short ton in 1999.<sup>77</sup>

The Commission observed that, while the increase in U.S. apple production that occurred over the period of investigation should have benefitted the U.S. industry, any benefits were far outpaced by the above-noted price declines. For cooperatives, increased production led to operating efficiencies that trimmed unit costs and expenses by \*\*\* percent. For non-cooperatives, unit COGS fell by \*\*\* percent. However, cooperatives' net proceeds fell by \*\*\* percent and non-cooperatives saw their operating losses balloon to more than \$\*\*\* in 1998 and more than \$\*\*\* in 1999, representing net operating losses equivalent to \*\*\* percent and \*\*\* percent of net sales, respectively.<sup>78</sup> Accordingly, the Commission found that the subject imports were having an adverse impact on the domestic industry.<sup>79</sup>

As noted above, since issuance of the order, domestic production of NFCAJ has decreased from 79,657 short tons in 1999 to \*\*\* short tons in 2004.<sup>80</sup> Domestic producers' market share has declined from 24.6 percent in 1999 to \*\*\* percent in 2004, while the share held by imports from China (both subject and nonsubject) has increased from 10.2 percent in 1999 to \*\*\* percent in 2004.<sup>81</sup> Of the nine domestic producers that participated in the original investigation, four have ceased NFCAJ operations entirely and two have each closed one of their NFCAJ processing plants.<sup>82</sup> Accordingly, we find, on the basis of the record in this five-year review, that the domestic industry is currently vulnerable to the continuation or recurrence of material injury in the event of revocation of the order on NFCAJ from China.<sup>83</sup>

To the extent that the orders have had a restraining effect on the volume and market share of subject imports, as noted above, we find that revocation of the orders would likely lead to a significant increase in the volume of subject imports that would undersell the domestic like product and otherwise significantly suppress or depress U.S. prices.

Within the limits of the data available in these reviews, and with reference in particular to the determinations and data in the original investigation, we also find that the volume and price effects of the subject imports would likely have a significant adverse impact on the industry's production, sales, and revenue levels and would have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping order on subject imports from China were revoked,

---

<sup>76</sup> USITC Pub. 3303 at 16 (noncooperative producers' operating income margin was \*\*\* percent in 1997, \*\*\* percent in 1998, and \*\*\* percent in 1999).

<sup>77</sup> USITC Pub. 3303 at 16.

<sup>78</sup> USITC Pub. 3303 at 16.

<sup>79</sup> USITC Pub. 3303 at 16.

<sup>80</sup> CR/PR at Table I-4.

<sup>81</sup> CR/PR at Table 1-7.

<sup>82</sup> CR at I-8, PR at I-6; CR/PR at Table I-3.

<sup>83</sup> Vice Chairman Okun and Commissioner Pearson do not make a finding with regard to whether the domestic industry is currently vulnerable to the continuation or reoccurrence of material injury in the event of revocation of the order on NFCAJ from China. They note that the record in this expedited review is not sufficiently developed with respect to the financial condition of the industry to make such a determination.

subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

### **CONCLUSION**

For the above-stated reasons, we determine that revocation of the antidumping duty order on NFCAJ from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

# INFORMATION OBTAINED IN THE REVIEW

## INTRODUCTION

### Background

On May 2, 2005, the Commission gave notice that it had instituted a five-year review to determine whether revocation of the antidumping duty order on non-frozen concentrated apple juice (“NFC AJ”) from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>1</sup> On August 5, 2005, the Commission determined that the domestic interested party group response to its notice of institution was adequate;<sup>2</sup> the Commission also determined that the respondent interested party group response was inadequate (in fact, nonexistent). The Commission found no other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).<sup>3</sup> The Commission voted on this review on September 19, 2005, and notified Commerce of its determination on September 28, 2005. Information relating to the background of the review is presented below.

<b>Effective date</b>	<b>Action</b>	<b>Federal Register citation</b>
June 5, 2000	Commerce’s antidumping duty order issued	65 FR 35606
May 2, 2005	Commission’s institution of five-year review	70 FR 22694
August 5, 2005	Commission issues scheduling notice for five-year review	70 FR 51365; August 30, 2005
September 8, 2005	Date of Commerce’s determination in expedited five-year review	70 FR 53339
September 19, 2005	Date of Commission’s vote	Not applicable
September 28, 2005	Commission’s determination transmitted to Commerce	Not applicable

---

<sup>1</sup> All interested parties were requested to respond to the notice by submitting information requested by the Commission.

<sup>2</sup> The Commission received one submission in response to its notice of institution for the subject review. It was filed by the U.S. Apple Association on behalf of Tree Top, Inc. (“Tree Top”), Selah, WA and Naumes Concentrates, Inc. (“Naumes”), Medford, OR, two major U.S. producers of NFC AJ (collectively, “domestic interested parties”). Tree Top and Naumes are believed to have accounted for approximately \*\*\* percent of U.S. NFC AJ production in 2004. Domestic interested parties’ June 21, 2005 response to the notice of institution (“domestic interested parties’ response”), p. 9.

<sup>3</sup> See the Commission’s web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review. The Commission’s statement on adequacy is presented in app. A, along with *Federal Register* notices that are relevant to this review.

## The Original Investigation

The Commission completed the original investigation<sup>4</sup> in May 2000, determining that an industry in the United States was materially injured by reason of imports from China of certain non-frozen concentrated apple juice.<sup>5</sup> The Commission found the domestic like product in the original investigation to be NFCAJ, coextensive with Commerce’s scope, and found the relevant domestic industry to consist of “all domestic producers of NFCAJ.”<sup>6</sup>

## Commerce’s Administrative Reviews

Between 2000, when the antidumping duty order was imposed, and the present time, Commerce conducted numerous administrative reviews with respect to imports of NFCAJ from China. Antidumping duty margins promulgated in Commerce’s antidumping duty order are presented in table I-1, as are the results of administrative reviews that resulted in a change in the antidumping margins for one or more Chinese manufacturers or exporters.

## Commerce’s Final Results of Expedited Review

Commerce conducted an expedited review with respect to NFCAJ from China and issued the final results of this review on August 31, 2005. Commerce determined that revocation of the antidumping duty order on NFCAJ from China would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Firm	Weighted-average margin ( <i>percent</i> )
Xian Asia	3.83
Xian Yang	3.83
Changsha Industrial	3.83
Shandong Foodstuffs	3.83
Shaanxi Machinery (SAAME)	51.74
Yantai Golden	51.74
PRC-wide rate	51.74

---

<sup>4</sup> The investigation resulted from a petition filed on June 7, 1999 on behalf of Coloma Frozen Foods, Inc. (“Coloma”), Coloma, MI; Green Valley Apples of California (“Green Valley”), Los Angeles, CA; Knouse Foods Cooperative, Inc. (“Knouse”), Peach Glen, PA; Mason County Fruit Packers Cooperative (“Mason County”), Ludington, MI; and Tree Top.

<sup>5</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. 1.

<sup>6</sup> *Ibid*, p. 5. The Commission did not include apple growers in the domestic industry.

Table I-1

**NFCAJ: Commerce’s antidumping duty margins from the original order and from administrative reviews resulting in changes in the margins**

Action	Date of action	Federal Register citation	Period of review	Antidumping duty margins		
				Firm-specific	China-wide	Percent ad valorem
Commerce's antidumping duty order	6/5/00	65 FR 35606	( <sup>1</sup> )	Yantai North Andre Shaanxi Haisheng Sanmenxia Lakeside Shandong Zhonglu et. al Yantai Oriental Qingdao Nannan Xian Asia Qin Xian Yang Changsha Industrial Shandong Foodstuffs	0.00 12.03 27.57 8.98 9.96 25.55 14.88 14.88 14.88 14.88	51.74
Administrative review	11/14/02	67 FR 68987	11/99-5/01		0.00 <sup>2</sup>	51.74
Administrative review	12/22/03	68 FR 71062	6/01-5/02		0.00 <sup>3,4</sup>	51.74
Amended final new shipper review	2/12/04	69 FR 6940	6/02-11/02	Yantai Golden	6.34	--
Amended antidumping duty order	2/13/04	69 FR 7197	( <sup>1</sup> )	Shaanxi Haisheng Sanmenxia Lakeside Shandong Zhonglu et. al Yantai Oriental Qingdao Nannan Xian Asia Qin Xian Yang Changsha Industrial Shandong Foodstuffs	0.00 <sup>5</sup> 0.00 <sup>5</sup> 0.00 <sup>5</sup> 0.00 <sup>5</sup> 0.00 <sup>5</sup> 3.83 3.83 3.83 <sup>6</sup> 3.83	51.74
Administrative review	11/10/04	69 FR 65148	6/02-5/03	Gansu Tongda	0.03 <sup>7</sup>	51.74
<p><sup>1</sup> Not applicable.</p> <p><sup>2</sup> These firms received a 0.00-percent margin: Qingdao Nannan Foods Co., Ltd.; Sanmenxia Lakeside Fruit Juice Co., Ltd.; Shaanxi Gold Peter Natural Drink Co., Ltd.; Shaanxi Haisheng Fresh Fruit Juice Co., Ltd.; Shaanxi Hengxing Fruit Juice Co., Ltd.; Shaanxi Machinery and Equipment Import and Export Corp.; Shandong Foodstuffs Import and Export Corp.; Shandong Zhonglu Juice Group Co., Ltd.; Xian Asia Qin Fruit Co., Ltd.; and Yantai Oriental Juice Co., Ltd. Changsha Industrial Products &amp; Minerals Import and Export Co., Ltd. was assigned the China-wide rate of 51.74 percent <i>ad valorem</i>.</p> <p><sup>3</sup> These firms received a 0.00-percent margin: Sanmenxia Lakeside Fruit Juice Co., Ltd.; Shaanxi Haisheng Fresh Fruit Juice Co., Ltd.; SDIC Zhonglu Juice Group Co., Ltd. (Shandong Zhonglu et. al); and Yantai Oriental Juice Co., Ltd.</p> <p><sup>4</sup> New shipper review resulted in a 0.00-percent margin for Gansu Tongda Fruit Juice and Beverage Co.</p> <p><sup>5</sup> Imports of NFCAJ from these firms were excluded from the antidumping duty order. Also, imports of NFCAJ from Yantai North Andre have been excluded since the original antidumping duty order.</p> <p><sup>6</sup> Changsha Industrial's cash deposit rate is 51.74 percent <i>ad valorem</i>.</p> <p><sup>7</sup> <i>De minimis</i>.</p>						
Source: Cited <i>Federal Register</i> notices.						

## Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

Since 2002, qualified U.S. producers of NFCAJ have been eligible to receive disbursements from U.S. Customs and Border Protection (“Customs”) under the Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”), also known as the Byrd Amendment.<sup>7</sup> Table I-2 presents CDSOA claims and disbursements for Federal fiscal years 2002-04.

**Table I-2**  
**NFCAJ: CDSOA claims and disbursements, Federal fiscal years 2002-04**

Claimant	Share of allocation	Amount of claim filed <sup>1</sup>	Amount disbursed
	<i>Percent</i>	<i>Dollars</i>	
FY 2002:			
Tree Top	100.0	86,206,607	1,355
FY 2003:			
Coloma	6.6	3,469,475	429
Green Valley	5.6	2,927,718	361
Knouse	20.8	10,887,494	1,346
Tree Top	67.0	35,126,516	4,342
Total	100.0	52,411,203	6,479
FY 2004:			
Knouse	33.4	12,440,859	184,400
Mason County	2.6	970,000	14,377
Tree Top	64.0	23,809,301	352,904
Total	100.0	37,220,160	551,681
<sup>1</sup> Qualifying expenditures incurred by domestic producers since the issuance of the order. Source: Customs' CDSOA Annual Reports at <a href="http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump">http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump</a> , retrieved August 18, 2005.			

<sup>7</sup> 19 CFR 159.64(g).

## THE PRODUCT

### Scope and Domestic Like Product

Commerce defines the scope of the subject merchandise as follows:<sup>8</sup>

*all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this investigation are: frozen concentrated apple juice; non-frozen concentrated apple juice that has been fermented; and non-frozen concentrated apple juice to which spirits have been added.*

The Brix value of a solution is a measure of the percentage by weight of sugar in the solution, taken at a standard temperature of 68 degrees Fahrenheit (and thus reflects the juice's sweetness).

NFCAJ is covered by subheadings 2009.79.00 and 2106.90.52 of the Harmonized Tariff Schedule of the United States ("HTS") and enters free of duty under the column 1-general rate, applicable to China.<sup>9</sup>

In its original determination, the Commission defined the domestic like product as NFCAJ, coextensive with Commerce's scope. The domestic interested parties have indicated that they agree with the Commission's definition of the domestic like product.

### Description and Uses<sup>10</sup>

Apple juice is the liquid captured from the mechanical processing (squeezing) of apples and apple parts. NFCAJ is single-strength apple juice that has had most of the water removed.<sup>11</sup> One gallon of NFCAJ generally makes about 7.5 gallons of reconstituted single-strength juice. NFCAJ is used principally to make apple juice, cider, and blended fruit juices.<sup>12</sup> NFCAJ is also used as an ingredient in other juice drinks, in carbonated and other beverages, and as a replacement for sucrose or corn syrup in such products as cookies, cereal, and health foods.

### Manufacturing Process<sup>13</sup>

NFCAJ can be made from recently harvested apples as well as from apples taken out of cold storage. NFCAJ is generally made from apples that have been removed (culled) from the main supply of raw apples after being passed through grading, sorting, and washing lines. This process allows for the separation of apples into groups intended for different end uses, including those suitable for sale for fresh-

---

<sup>8</sup> See the antidumping duty order, 65 FR 35606, June 5, 2000.

<sup>9</sup> According to Commerce, the written description provided above remains dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes.

<sup>10</sup> All of the discussion in this section is from the original investigation. *Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, pp. I-3 and I-4.

<sup>11</sup> Single-strength apple juice (also known in the industry as "1XAJ") is apple juice in its natural state (i.e., immediately after pressing), and usually has a sugar level in the range of 9 to 14 degrees Brix.

<sup>12</sup> Petition, exh. 2, p. 3.

<sup>13</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, pp. I-4 and I-5.

market use; those suitable for production of processed apple products such as canned apples, canned apple rings, apple butter, and applesauce; and those suitable for making apple juice.

Apples selected for making juice, commonly referred to as juice apples, are placed into a concentrator for further processing into juice. These apples are first milled and mash-finished to remove stems, seeds, peels, and other extraneous materials from the apples. Next, the juice is extracted from the apples and apple parts, using either a press or a liquification process, and the apple-pulp residue is removed and disposed of.<sup>14</sup> The extracted juice is then passed through a stripper wherein the juice is heated to remove (and recover if desired) the apple essence (the essential flavor of apple juice),<sup>15</sup> and the remaining juice is pasteurized to remove most potentially harmful organisms.<sup>16</sup> The juice is then clarified (filtered) to produce a non-cloudy liquid which is passed through evaporators. The evaporators heat the liquid still further to remove any remaining water, resulting in a highly concentrated apple juice product.

Many apple juice processors also produce juice blends in which NFCAJ is a principal ingredient or use NFCAJ as a principle ingredient in a juice other than apple juice. For example, apple-mango and apple-passion fruit juice blends are approximately \*\*\* percent NFCAJ and \*\*\* percent flavorings. Apple, cherry, and grape juice may use about 75 percent NFCAJ and 25 percent flavorings.<sup>17</sup> NFCAJ may also be the principal ingredient in reconstituted single-strength apple juice or may be used to increase the sweetness of single-strength premium apple juice.<sup>18</sup>

## THE INDUSTRY IN THE UNITED STATES

### U.S. Producers

In 1999, an estimated 16 firms in the United States produced NFCAJ; two of these firms, Naumes and Tree Top, accounted for \*\*\* the domestic production reported in the original staff report. Nine firms participated in the original investigation and several of them have ceased NFCAJ production since 1999. Four domestic producers (Green Valley Processors (“Green Valley”), Bakersfield, CA; Hi-County, Selah, WA; Sun Met, Del Rey, CA; and Washington Frontier Juice, Prosser, WA) are no longer producing NFCAJ.<sup>19</sup> In addition, two domestic firms, Naumes and Mason County, each closed one NFCAJ processing plant since 2000.<sup>20</sup> The current known U.S. NFCAJ processors are listed in table I-3. As shown in the table, the two domestic interested parties in this review account for \*\*\* majority of current domestic production of NFCAJ.

---

<sup>14</sup> This byproduct is reported to be used as animal feed. Interview with \*\*\*, June 24, 1999.

<sup>15</sup> At this stage of processing, the amount of essence produced is usually small, relative to the amount of NFCAJ produced. There are different qualities and levels of essence.

<sup>16</sup> A number of firms in the U.S. industry reportedly invested in ultra-high-temperature pasteurizing equipment to remove any remaining organisms later in the production process. *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. I-4, fn. 20.

<sup>17</sup> \*\*\*.

<sup>18</sup> Single-strength apple juice may be bottled either by processors/concentrators who have bottling facilities, or by bottlers who purchase NFCAJ. The processors/concentrators usually bottle under their own branded label, while bottlers usually bottle under private label.

<sup>19</sup> Domestic interested parties’ response, p. 5.

<sup>20</sup> Ibid.

**Table I-3**

**NFCAJ: U.S. producers in the original investigation and/or in 2004, their locations, and their shares of reported U.S. NFCAJ production during the original investigation and in 2004**

Producer	Location	Share of reported U.S. NFCAJ production	
		Original investigation <sup>1</sup>	2004 <sup>1</sup>
		Percent	
Cherry Growers, Inc.	Grawn, MI	***	( <sup>3</sup> )
Coloma	Coloma, MI	( <sup>2</sup> )	Very small
Green Valley	Bakersfield, CA	( <sup>2</sup> )	Closed in March 2002
Hi-County	Selah, WA	( <sup>3</sup> )	Closed in September 2003
Johnson Concentrates	Sunnyside, WA	( <sup>3</sup> )	Very small
Knouse	Peach Glen, PA	( <sup>2</sup> )	( <sup>3</sup> )
Mason County	Ludington, MI	***	( <sup>4</sup> )
Mott's	Williamson, NY	***	Medium <sup>5</sup>
Naumes	Medford, OR	***	***
Northwest Packing	Vancouver, WA	( <sup>3</sup> )	Very small
Seneca Foods Corp. <sup>6</sup>	Prosser, WA	( <sup>6</sup> )	( <sup>6</sup> )
Sun Met	Del Rey, CA	( <sup>3</sup> )	Closed in January 2002
SVZ	Othello, WA	( <sup>3</sup> )	Very small
Tree Top	Selah, WA	***	***
Valley Processing	Sunnyside, WA	( <sup>3</sup> )	Very small
Washington Frontier Juice	Prosser, WA	( <sup>3</sup> )	Closed in November 2001
Welch's	Grandview, WA	( <sup>3</sup> )	Medium <sup>7</sup>

<sup>1</sup> Shares listed for the original investigation (1997-99) and for 2004 are not directly comparable. Figures for the original investigation are the shares of reported U.S. production; reporting domestic manufacturers during the original investigation were estimated to account for nearly 90 percent of total U.S. NFCAJ production in 1999. Figures for 2004 are the estimated shares of total U.S. production.

<sup>2</sup> \*\*\*

<sup>3</sup> Not available.

<sup>4</sup> A small producer that has not produced NFCAJ in the last three years.

<sup>5</sup> Mott's produces NFCAJ only for internal use.

<sup>6</sup> Seneca was purchased by Tree Top in February 1999 and its data are excluded.

<sup>7</sup> Welch's processes mostly grapes, but produces some NFCAJ for internal use.

Source: *Staff Report of April 28, 2000*, pp. III-2 through III-4, and domestic interested parties' response, pp. 4, 5, 7, and 8.

## U.S. Producers' Capacity, Production, and U.S. Shipments Data

Data reported by U.S. producers in the Commission's original investigation are presented in table I-4. U.S. production of NFCAJ decreased by 10.5 percent from 1997 to 1998 and then increased by 31.1 percent from 1998 to 1999 for an overall increase of 17.3 percent. U.S. capacity to produce NFCAJ moved in the opposite direction, decreasing by 2.1 percent between 1997 and 1999, and capacity utilization increased from 55.6 percent to 66.6 percent. U.S. producers' U.S. shipments, by quantity, increased by 42.8 percent from 1997 to 1999, and by value decreased by 14.9 percent. The average unit value of U.S. producers' U.S. shipments declined by 40.4 percent from 1997 to 1999.

**Table I-4**

**NFCAJ: U.S. producers' capacity, production, and U.S. shipments, 1997-99, and 2004**

Item	1997	1998	1999	2004
Capacity ( <i>short tons</i> )	122,087	123,484	119,545	(1)
Production ( <i>short tons</i> )	67,895	60,783	79,657	***2
Capacity utilization ( <i>percent</i> )	55.6	49.2	66.6	(1)
U.S. shipments: <sup>3</sup>				
Quantity ( <i>short tons</i> )	58,660	66,154	83,765	***3
Value ( <i>1,000 dollars</i> )	81,852	57,075	69,663	(1)
Unit value ( <i>per ton</i> )	\$1,395	\$863	\$832	(1)

<sup>1</sup> Not available.

<sup>2</sup> Domestic interested parties estimated total U.S. production of all NFCAJ to be \*\*\* gallons in 2004. The industry standard for converting gallons of concentrate to pounds is \*\*\* pounds of 70-degree Brix concentrate per gallon. Commission staff used this standard in its calculations. NFCAJ, as defined by the scope, can be of any concentration with a Brix value over 40. The domestic industry typically produces NFCAJ with Brix values 70 or higher.

<sup>3</sup> Calculated from domestic interested parties' internal usage and sales data (as reported in gallons and converted to short tons), which is \*\*\* percent of the domestic industry and multiplying that number by 100 and dividing it by \*\*\*.

Note.—Reporting domestic manufacturers during the original investigation were estimated to account for nearly 90 percent of total U.S. NFCAJ production in 1999. The precise comparability of the figures for 1997-99 and any figure for 2004 cannot be determined. The response to the Commission's notice of institution for this five-year review was filed on behalf of \*\*\* the original five petitioning firms and one additional firm.

Source: *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, pp. III-5 through III-7; domestic interested parties' response, app. 2.

## U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

### U.S. Imports

During the original investigation, the Commission identified approximately 24 possible importers of NFCAJ from China.<sup>21</sup> In their response to the Commission's notice of institution in this review, the domestic interested parties did not identify any currently operating U.S. importers of the subject merchandise.<sup>22</sup> In the original investigation, \*\*\* the U.S. producers reported purchasing imported NFCAJ during the period of investigation, with \*\*\* importing the product directly.<sup>23</sup> As for the two domestic interested parties in this review, Naumes did not import the subject merchandise in 2004, but Tree Top imported approximately \*\*\* percent<sup>24</sup> of total U.S. imports of the subject merchandise in 2004 (\*\*\*).<sup>25</sup>

Following the imposition of the antidumping duty order in June 2000, NFCAJ imports from China continued to rise each year from 2000 to 2004, as shown in table I-5. The unit value per short ton for NFCAJ from China was highest in 2000 when the antidumping duty order was imposed, a 16-percent increase from 1999. From 2001 to 2004, the unit value per short ton for NFCAJ imported from China increased irregularly by 9.3 percent. Table I-5 presents the units of quantity (converted from liters to short tons), value, and unit value for NFCAJ imported from China as reported in official Commerce import statistics for 1999 to 2004.<sup>26</sup>

---

<sup>21</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. IV-1.

<sup>22</sup> Domestic interested parties' response, p. 9.

<sup>23</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. III-5.

<sup>24</sup> Tree Top's imports from China were \*\*\* percent of its total NFCAJ production in 2004. To calculate Tree Top's imports from China, staff used Tree Top's \*\*\* of Chinese NFCAJ. Domestic interested parties' response, app. 2.

<sup>25</sup> Domestic interested parties' response, p. 9.

<sup>26</sup> The official statistics are reported in liters as the first unit of quantity. In the original investigation, a second unit of quantity, kilograms, was also reported. Effective January 1, 2002, the second unit of quantity of kilograms was no longer reported. In addition, the relevant HTS subheading was broken into further categories, with the HTS statistical reporting number applicable to NFCAJ being 2009.79.0020. Although this HTS number is an "other" category, it is the only usable data. The conversion for liters into short tons is 1 short ton = 4091.4113 liters (single-strength equivalent), which was calculated using 1998 Customs data in both kilograms and liters and testing the conversion factor against the results in the original investigation.

**Table I-5**  
**NFCAJ: U.S. imports from China, 1999-2004**

1999	2000	2001	2002	2003	2004
<b>Quantity (short tons)<sup>1</sup></b>					
34,540	46,443	49,402	53,885	118,115	208,770
<b>Landed duty-paid value (1,000 dollars)</b>					
26,862	42,031	34,831	35,109	85,487	160,926
<b>Landed duty-paid unit value (per short ton)</b>					
\$777.71	\$905.01	\$705.06	\$651.55	\$723.76	\$770.83
<p><sup>1</sup> Effective January 1, 2002, the second unit of quantity of kilograms was no longer reported for U.S. imports of NFCAJ. The conversion for liters into short tons is 1 short ton = 4091.4113 liters (single-strength equivalent), which was calculated using 1998 Customs data in both kilograms and liters and testing the conversion factor against the results in the original investigation.</p> <p>Note.--Effective January 1, 2002, the HTS changed and was broken into further categories, with the HTS statistical reporting number for non-frozen concentrated apple juice being 2009.79.0020. In the original investigation, NFCAJ may have been reported under HTS subheading 2009.70.00. Given the HTS changes, the data for 1999-2001 and 2001-04 may not be directly comparable.</p> <p>Source: Official Commerce statistics.</p>					

Data on U.S. imports of NFCAJ for 1997-99 and 2004 are presented in table I-6. Commerce conducted several administrative reviews on NFCAJ from China, resulting in lower margins for specific firms in the original order. As shown in table I-1 earlier, Commerce's amended antidumping duty order in February 2004 resulted in lowering the margins to zero for five firms and to 3.83 percent *ad valorem* for another four firms in the original order. An administrative review in November 2004 resulted in a *de minimis* margin of 0.03 percent for another firm, Gansu Tongda. The China-wide margin has remained the same at 51.74 percent since the original order in June 2000.

**Table I-6**  
**NFCAJ: U.S. imports from all sources, 1997-99 and 2004<sup>1</sup>**

Item	1997	1998	1999	2004 <sup>1</sup>
	<b>Quantity (short tons)</b>			
China: Subject	***	***	***	(2)
Nonsubject <sup>3</sup>	***	***	***	(2)
Subtotal	25,978	46,032	34,600	208,770
Other sources <sup>4</sup>	232,935	190,385	222,478	157,729
Total	258,913	236,417	257,079	366,499
	<b>Landed, duty-paid value (1,000 dollars)<sup>5</sup></b>			
China Subject	***	***	***	(2)
Nonsubject <sup>3</sup>	***	***	***	(2)
Subtotal	27,038	33,389	26,862	160,926
Other sources <sup>4</sup>	289,695	170,806	203,266	148,986
Total	316,733	204,195	230,128	309,912
	<b>Landed, duty-paid unit value (per short ton)<sup>5</sup></b>			
China Subject	\$***	\$***	\$***	(2)
Nonsubject <sup>3</sup>	***	***	***	(2)
Average	1,041	725	776	771
Other sources <sup>4</sup>	1,244	897	913	945
Average	1,223	864	895	846

<sup>1</sup> Effective January 1, 2002, the second unit of quantity of kilograms was no longer reported for U.S. imports of NFCAJ. The conversion for liters into short tons is 1 short ton = 4091.4113 liters (single-strength equivalent), which was calculated using 1998 Customs data in both kilograms and liters and testing the conversion factor against the results in the original investigation.

<sup>2</sup> Not available.

<sup>3</sup> Consists of NFCAJ produced by Yantai North Andre, which received a 0.00-percent dumping margin in the original investigation.

<sup>4</sup> The primary other sources during 1997-99 were Argentina, Chile, Germany, Hungary, and Turkey; in 2004, the primary other sources were Argentina, Chile, Germany, South Africa, and Turkey.

<sup>5</sup> Data do not include antidumping duties for 1997-99.

Source: *Staff Report of April 28, 2000*, p. IV-2 and IV-3 for 1997-99 data (which were compiled from official Commerce statistics and data submitted in response to Commission questionnaires); official Commerce statistics for 2004 data.

## Apparent U.S. Consumption and Market Shares

Data on apparent U.S. consumption of NFCAJ in 1997-99 and 2004 are presented in table I-7.

**Table I-7**

**NFCAJ: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption based on quantity, 1997-99 and 2004<sup>1</sup>**

Item	1997	1998	1999	2004
	<b>Quantity (short tons)</b>			
U.S. producers' U.S. shipments	58,860	66,154	83,765	*** <sup>2</sup>
U.S. imports from-- China:				
Subject	***	***	***	(3)
Nonsubject	***	***	***	(3)
Subtotal	25,978	46,032	34,600	208,770 <sup>4</sup>
All other sources	232,935	190,385	222,478	157,729 <sup>4</sup>
Total	258,913	236,417	257,079	366,499 <sup>4</sup>
Apparent U.S. consumption	317,573	302,572	340,844	***
	<b>Share of consumption (percent)</b>			
U.S. producers' U.S. shipments	18.5	21.9	24.6	***
U.S. imports from-- China:				
Subject	***	***	***	(3)
Nonsubject	***	***	***	(3)
Subtotal	8.2	15.2	10.2	***
All other sources	73.3	62.9	65.3	***
Total	81.5	78.1	75.4	100.0

<sup>1</sup> As described earlier (see note to table I-4), the data for U.S. producers' U.S. shipments are believed to account for nearly 90 percent of the total U.S. NFCAJ industry during 1997-99.

<sup>2</sup> Calculated from domestic interested parties' internal usage and sales data (as reported in gallons and converted to short tons), which is \*\*\* percent of the domestic industry and multiplying that number by 100 and dividing it by \*\*\*.

<sup>3</sup> Not available.

<sup>4</sup> Effective January 1, 2002, the second unit of quantity of kilograms was no longer reported for U.S. imports of NFCAJ. The conversion for liters into short tons is 1 short ton = 4091.4113 liters (single-strength equivalent), which was calculated using 1998 Customs data in both kilograms and liters and testing the conversion factor against the results in the original investigation. Data for 2004 were converted from liters to short tons using this conversion factor.

Source: *Staff Report of April 28, 2000*, pp. IV-8 and IV-9 for 1997-99 data; domestic interested parties' response, app. 2; and official Commerce statistics for 2004 data.

Apparent U.S. consumption of NFCAJ grew by 7.3 percent from 1997 to 1999 and grew by \*\*\* from 1999 to 2004.<sup>27</sup> Over the same period, the U.S. industry's share of apparent U.S. consumption declined from 24.6 percent in 1999 to \*\*\* percent in 2004 while the share of apparent U.S. consumption of subject imports from China climbed from 10.2 percent in 1999 to \*\*\* percent in 2004. The share of apparent consumption accounted for by importers of NFCAJ from countries other than China declined by \*\*\*, from 65.3 percent in 1999 to \*\*\* in 2004.

## THE INDUSTRY IN CHINA

In 1999, eight Chinese companies submitted foreign producer questionnaire responses to the Commission: Qingdao Nannan Foods Co., Ltd.; Shaanxi Haisheng Fresh Fruit Juice Co., Ltd.; Sanmenxia Lakeside Fruit Juice Co., Ltd.; Shandong Zhonglu Juice Group Co.; Yantai North Andre Juice Co., Ltd.;<sup>28</sup> Yantai Oriental Juice Co., Ltd.; Xian Asia Qin Fruit Co., Ltd.; and Xian Yang Fu An Juice Co., Ltd.<sup>29</sup> Their data are presented in table I-8. The NFCAJ industry in China developed "rapidly" between 1994 and 1999, with the majority of the firms that responded in the original investigation reporting no NFCAJ production prior to 1997.<sup>30</sup> In their response to the Commission's notice of institution in this second review, the domestic interested parties stated that there are now 35 NFCAJ firms operating 55 factories in China.<sup>31</sup> Approximately 14 out of those 35 firms reportedly accounted for the vast majority of exports to the United States.<sup>32</sup>

At the time of the original investigation, most of the firms reported rapidly expanding production and for all but one of the responding firms, NFCAJ accounted for more than 90 percent of total sales.<sup>33</sup> In addition, these firms reported that only about 7.2 percent of 1999 production was slated for the home market, with the other 92.8 percent destined for export (with about 16.5 percent of production going to the United States). The major export markets for Chinese NFCAJ were the United States, Japan, Australia, and South Africa. In their response to the Commission's notice of institution in the present review, the domestic interested parties suggested that the NFCAJ industry in China continues to expand its already substantial production capacity.<sup>34</sup> The domestic interested parties further allege that relatively low home market demand in China provides Chinese producers with an incentive to increasingly look abroad for markets for NFCAJ.

There are no known antidumping duties on NFCAJ from China in any countries other than the United States.

---

<sup>27</sup> Ibid, p. II-6 and domestic interested parties' response, app. 2. The data for U.S. producers' U.S. shipments were calculated from domestic interested parties' internal usage and sales data (as reported in gallons and converted to short tons), which is \*\*\* percent of the domestic industry, and multiplying that number by 100 and dividing it by \*\*\*.

<sup>28</sup> Yangtai North Andre Juice Co., Ltd.'s data were excluded from subject imports after Commerce determined that it was not dumping NFCAJ in the U.S. market.

<sup>29</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. VII-1.

<sup>30</sup> Ibid., pp. VII-1 and VII-2.

<sup>31</sup> Domestic interested parties' response, p. 2.

<sup>32</sup> Ibid.

<sup>33</sup> *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. VII-1.

<sup>34</sup> Domestic interested parties' response, p. 6.

**Table I-8**  
**NFCAJ: China's capacity and shipments, 1997-99<sup>1</sup> and 2004**

Item	1997	1998	1999	2004
	<b>Quantity (short tons, except as noted)</b>			
Capacity	36,085	68,463	77,476	( <sup>2</sup> )
Production	34,101	55,123	77,568	( <sup>2</sup> )
Capacity utilization ( <i>percent</i> )	94.5	80.5	100.1	( <sup>2</sup> )
Shipments: Home market	3,898	9,750	5,587	( <sup>2</sup> )
Exports: United States	10,681	24,660	12,897	208,770 <sup>3</sup>
Other	13,356	14,131	59,553	( <sup>2</sup> )
Total exports	24,037	38,791	72,450	( <sup>2</sup> )
Total shipments	27,935	48,540	78,037	( <sup>2</sup> )

<sup>1</sup> The eight reporting firms in China accounted for just over 37 percent of the quantity of exports from China to the U.S. market in 1999.

<sup>2</sup> Not available.

<sup>3</sup> Effective January 1, 2002, the second unit of quantity of kilograms was no longer reported for U.S. imports of NFCAJ. The conversion for liters into short tons is 1 short ton = 4091.4113 liters (single-strength equivalent), which was calculated using 1998 Customs data in both kilograms and liters and testing the conversion factor against the results in the original investigation. Data for 2004 are from U.S. imports of NFCAJ from China and were converted from liters to tons using this conversion factor.

Source: *Certain Non-Frozen Concentrated Apple Juice from China, Investigation No. 731-TA-841 (Final)*, USITC Publication 3303, May 2000, p. VII-2 for 1997-99 data; and official Commerce statistics for 2004 data.

**APPENDIX A**

***FEDERAL REGISTER* NOTICES AND THE  
COMMISSION'S STATEMENT ON ADEQUACY**



**APPENDIX A**

***FEDERAL REGISTER* NOTICES AND THE  
COMMISSION'S STATEMENT ON ADEQUACY**



## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-841 (Review)]

### Non-Frozen Concentrated Apple Juice From China

**AGENCY:** International Trade Commission.

**ACTION:** Institution of a five-year review concerning the antidumping duty order on non-frozen concentrated apple juice from China.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 05-5-122, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.** On June 5, 2000, the Department of Commerce issued an antidumping duty order on imports of non-frozen concentrated apple juice from China (65 FR 35606). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

**Definitions.** The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as non-frozen concentrated apple juice.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic producers of non-frozen concentrated apple juice. The Commission did not include apple growers in the Domestic Industry.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 5, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

**Participation in the review and public service list.** Persons, including industrial users of the Subject Merchandise and, if the merchandise is

sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.** Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification.** Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be

deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

**Written submissions.** Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

**Inability to provide requested information.** Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to

section 776(b) of the Act in making its determination in the review.

**Information To Be Provided in Response To This Notice of Institution:** As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of

total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 20, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-8721 Filed 4-29-05; 8:45 am]

**BILLING CODE 7020-02-P**

**INTERNATIONAL TRADE COMMISSION**

**[Investigations Nos. 701-TA-401 and 731-TA-853 and 854 (Review)]**

**Structural Steel Beams From Japan and Korea**

**AGENCY:** International Trade Commission.

**ACTION:** Institution of five-year reviews concerning the countervailing duty order on structural steel beams from Korea and the antidumping duty orders on structural steel beams from Japan and Korea.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on structural steel beams from Korea and the antidumping duty orders on structural steel beams from Japan and Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of

consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** *Background.* On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/Country	Inv. No.	F.R. cite
6/19/2000 .....	Structural steel beams/Japan .....	731-TA-853 .....	65 F.R. 37960.
8/14/2000 .....	Structural steel beams/Korea .....	701-TA-401 .....	65 F.R. 49542.
8/18/2000 .....	Structural steel beams/Korea .....	731-TA-854 .....	65 F.R. 50502.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include

information provided in response to this notice.

*Definitions.* The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan and Korea.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the

Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all structural steel beams of the type described in the Department of Commerce's scope definition.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 05-5-123,

expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to

the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

explanatory information and related forms, contact John A. Trelease at the address listed in **ADDRESSES**.

**SUPPLEMENTARY INFORMATION:** OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR part 869, Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting and the form it implements, the OSM-1, Coal Reclamation Fee Report. This request consolidates these requirements with the excess moisture deduction provisions found in § 870.18, approved separately by OMB under control number 1029-0090.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden and respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activities:

*Title:* Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, 30 CFR 870.

*OMB Control Number:* 1029-0063.

*Summary:* The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of P.L. 95-87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSM could not implement its regulatory responsibilities and collect the fee.

*Bureau Form Number:* OSM-1.

*Frequency of Collection:* Quarterly.  
*Description of Respondents:* Coal mine permittees.

*Total Annual Responses:* 11,192.  
*Total Annual Burden Hours:* 2,462.

Dated: August 24, 2005.

**John R. Craynon,**

*Chief, Division of Regulatory Support.*

[FR Doc. 05-17187 Filed 8-29-05; 8:45 am]

**BILLING CODE 4310-05-M**

---

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701-TA-302 and 731-TA-454 (Second Review)]**

### Fresh and Chilled Atlantic Salmon From Norway

**AGENCY:** International Trade Commission.

**ACTION:** Revised schedule for the subject five-year reviews.

**DATES:** *Effective Date:* August 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** John Kitzmiller (202-205-3387), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** On June 20, 2005, the Commission established a schedule for the conduct of the subject five-year reviews (70 FR 36947, June 27, 2005). The Commission hereby gives notice that it is revising the schedule for its final determinations in the subject five-year reviews.

The Commission's schedule is revised as follows: The prehearing staff report will be placed in the nonpublic record on September 29, 2005; the deadline for filing prehearing briefs is October 11, 2005; requests to appear at the hearing should be filed with the Secretary to the Commission on or before October 12, 2005; the prehearing conference will be held on October 14, 2005; the hearing will be held on October 20, 2005; posthearing briefs are due October 31, 2005; the closing of the record and final

release of information is November 22, 2005; and final comments on this information are due on or before November 28, 2005. In addition, final party comments concerning only Commerce's final results on its sunset review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway are due three business days after the issuance of Commerce's results.

For further information concerning these review investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These five-year reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 24, 2005.

**Marilyn R. Abbot,**

*Secretary to the Commission.*

[FR Doc. 05-17164 Filed 8-29-05; 8:45 am]

**BILLING CODE 7020-02-M**

---

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731-TA-841 (Review)]**

### Certain Non-Frozen Concentrated Apple Juice From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of an expedited five-year review concerning the antidumping duty order on certain non-frozen concentrated apple juice from China.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on certain non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E and F (19 CFR part 207).

**EFFECTIVE DATES:** Effective Date: August 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Joanna Lo (202-205-1888 or

joanna.lo@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On August 5, 2005, the Commission determined that the domestic interested party group response to its notice of institution (70 FR 22694, May 2, 2005) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

**Staff report.**—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 31, 2005, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

**Written submissions.**—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>2</sup> and any party other than an interested party to the review, may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before September 6, 2005, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may

submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 6, 2005. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: August 24, 2005.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 05-17174 Filed 8-29-05; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on May 12, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Mobile Alliance ("OMA") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the

Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 7 Layers AG, Ratingen, GERMANY; ACL Wireless, New Delhi, INDIA; Action Engine Corp., Redmond, WA; Adamind, Ra'anana, ISRAEL; Agere Systems Inc., Naperville, IL; Airwide Solutions Inc., Longueuil, Quebec, CANADA; Akumiitti, Helsinki, FINLAND; ALLTEL Communications, Inc., Little Rock, AR; Alterbox, Budapest, HUNGARY; Amplefuture Ltd., London, UNITED KINGDOM; Andrew Corporation, Ashburn, VA; Arasan Chip Systems Inc., San Jose, CA; AtomiZ S.A., Paris, FRANCE; Ajsana Semiconductor, Ottawa, Ontario, CANADA; Auto TOOLS Group Co., Ltd., Taipei, TAIWAN; Bamboo MediaCasting, Kfar-Saba, ISRAEL; Beijing ZRRT Communications Technology Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; BorderWare Technologies Inc., Mississauga, Ontario, CANADA; Broadcom Corporation, Irvine, CA; Bytemobile, Inc., Mountain View, CA; Cambridge Positioning Systems Ltd., Cambridge, UNITED KINGDOM; Cellular GmbH, Hamburg, GERMANY; Celtius Oy, Helsinki, FINLAND; China Telecommunications Corporation, Beijing, PEOPLE'S REPUBLIC OF CHINA; China United Telecommunications Corporation, Beijing, PEOPLE'S REPUBLIC OF CHINA; Clickatell Ltd., Bellville, SOUTH AFRICA; ComEase Pte Ltd., Singapore, SINGAPORE; Communications Global Certification Inc., Tao-Yuan, TAIWAN; Connect Technologies Corporation, Tokyo, JAPAN; Consistec Engineering & Consulting, Saarbrücken, GERMANY; Core Mobility, Mountain View, CA; Cryptico A/S, Copenhagen, DENMARK; Danger, Inc., Palo Alto, CA; Darts Technologies Corporation, Chung Ho, TAIWAN; Dascom Technology, Beijing, PEOPLE'S REPUBLIC OF CHINA; Dittosoft Inc., Daegu, REPUBLIC OF KOREA; Dream Soft Co., Ltd., Daegu, REPUBLIC OF KOREA; DxO Labs, Boulogne, FRANCE; Eigel-Danielson, Monument, CO; Elcoteq Network Corporation, Salo, FINLAND; Electric Pocket, Pontynerynydd, Torfaen, UNITED KINGDOM; Elisa, Elisa, FINLAND; EMCC Software Ltd., Manchester, UNITED KINGDOM; Emirates Telecommunications Corporation, Abu Dhabi, UNITED ARAB EMIRATES; End2End Mobile, Aalborg SV, DENMARK; ETS Dr. Genz GmbH, Reichenwalde, GERMANY; EXPWAY, Paris, FRANCE; FEELing Co. Ltd., Seoul, REPUBLIC OF KOREA; Finjurdata, Rotkreuz, SWITZERLAND;

<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

<sup>2</sup> The Commission has found the responses submitted by Naumes Concentrates, Inc. and Tree Top, Inc. to be adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation,<sup>5</sup> but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate described in the final results of this review. We note that all subject merchandise produced by MS Galati will be subject to MS Galati's cash deposit rate as established in the final results, whether or not that merchandise was exported by MEI.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. We note that the cash deposit rate established in the final results of this review will be applied prospectively to cover future entries.

#### Schedule for Final Results of Review

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with § 351.224(b) of the Department's regulations. Case briefs for this review must be submitted to the Department no later than fourteen days after the date of the final cost verification report issued in this proceeding. Rebuttal briefs must be filed seven days from the deadline date for case briefs. Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with § 351.303(f) of the Department's regulations.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. Individuals who wish to request a hearing must submit a written request within 30 days of the

publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under § 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2005.

**Barbara E. Tillman,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-4889 Filed 9-7-05; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-570-855**

#### **Non-Frozen Apple Juice Concentrate from the People's Republic of China (PRC); Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order**

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

**EFFECTIVE DATE:** September 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Frances M. Veith at (202) 482-4295, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUMMARY:** On May 2, 2005, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on Non-Frozen Apple Juice Concentrate from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-year (Sunset) Reviews*, 70 FR 22632. On the basis of a Notice of Intent to Participate, and an adequate substantive response filed on behalf of domestic interested parties, as well as a lack of response from respondent interested parties, the Department conducted an expedited (120-day) sunset review pursuant to section 751(c)(5)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(c)(2). As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On May 2, 2005, the Department published the notice of initiation of the sunset review of the antidumping duty order on Non-Frozen Apple Juice Concentrate from the PRC.<sup>1</sup> On May 17, 2005, the Department received a Notice of Intent to Participate from an interested party, the U.S. Apple Association (U.S. Apple) within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. U.S. Apple claimed interested party status under section 771(9)(E) of the Act, as a trade association representing all segments of the apple industry. On June 1, 2005, the Department received a complete substantive response from U.S. Apple within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited review of the order.

<sup>5</sup> See *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Romania*, 58 FR 37209 (July 9, 1993).

<sup>1</sup> See *Initiation of Five-Year ("Sunset") Reviews*, 70 FR 22632 (May 2, 2005) (Initiation Notice).

### Scope of the Order

The product covered by this antidumping order is certain non-frozen apple juice concentrate (NFAJC). Certain NFAJC is defined as all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this order are: frozen concentrated apple juice; non-frozen concentrated apple juice that has been fermented; and non-frozen concentrated apple juice to which spirits have been added.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 2106.90.52.00, and 2009.70.00.20 before January 1, 2002, and 2009.79.00.20 after January 1, 2002. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

### Analysis of Comments Received

All issues raised in these reviews are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated August 30, 2005, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>, under the heading "September 2005." The paper copy and electronic version of the Decision Memorandum are identical in content.

### Final Results of Reviews

We determine that revocation of the antidumping duty orders on NFAJC from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-average margin (percent)
Xian Asia .....	3.83
Xian Yang Fuan .....	3.83
Changsha .....	3.83
Shandong Foodstuffs ...	3.83
SAAME .....	51.74
Yantai Golden .....	51.74
PRC-Wide Rate .....	51.74

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-4894 Filed 9-7-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-825]

#### Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** In response to a request filed by domestic interested parties, the U.S. Department of Commerce ("the Department") is conducting an administrative review under the antidumping duty order on oil country tubular goods, other than drill pipe ("OCTG"), from Korea. This review covers the following producers: Husteel Co., Ltd. ("Husteel") and SeAH Steel Corporation ("SeAH"). The period of review ("POR") is August 1, 2003, through July 31, 2004. The preliminary results are listed below in the section entitled "Preliminary Results of Review." We preliminarily determine that both Husteel and SeAH made sales below normal value ("NV"). If these preliminary results are adopted in our

final results, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties based on the difference between the constructed export price ("CEP") and the NV.

**EFFECTIVE DATE:** September 8, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Scott Lindsay or Nicholas Czajkowski, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0780 or (202) 482-1395, respectively.

#### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

On August 11, 1995, the Department published in the **Federal Register** an antidumping duty order on OCTG from Korea (60 FR 41058). On August 3, 2004, the Department published a notice of an opportunity to request an administrative review of the antidumping order on OCTG from Korea. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 46496. On August 31, 2004, the Department received a properly filed, timely request for an administrative review from domestic producers, IPSCO Tubulars, Inc., Lone Star Steel Company, and Maverick Tube Corporations ("petitioners"). On September 22, 2004, the Department published a notice of initiation for this antidumping duty administrative review. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745.

On November 12, 2004, the Department issued questionnaires to Husteel and SeAH. Husteel and SeAH submitted Section A<sup>1</sup> responses on January 5, 2005 and Section B-D responses on January 18, 2005. SeAH also submitted a Section E response on January 18, 2005. The Department issued supplemental questionnaires on February 29, 2005, March 24, 2005, and June 6, 2005. Husteel and SeAH

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.



## **EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY**

in

*Non-Frozen Concentrated Apple Juice From China,  
Inv. No. 731-TA-841 (Second Review).*

On August 5, 2005, the Commission unanimously determined<sup>1</sup> that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received responses to the notice of institution from two domestic producers, Naumes Concentrates, Inc. (“Naumes”) and Tree Top, Inc. (“Tree Top”). Because the Commission received adequate responses from two producers representing the overwhelming majority of domestic production, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response, and any other circumstances that it deemed warranted proceeding to a full review, the Commission determined to conduct an expedited review. A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).

---

<sup>1</sup>Commissioner Miller did not participate.

