

FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

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



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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 701-TA-184 (Final)

FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)(1)), that an industry in the United States is threatened with material injury by reason of imports of frozen concentrated orange juice (FCOJ) 3/ which have been found by the Department of Commerce to be subsidized by the Government of Brazil. Further, pursuant to section 705(b)(4)(B) of the act (19 U.S.C. § 1671d(b)(4)(B)), the Commission determines that material injury would not have been found in this investigation but for any suspension of liquidation of entries of FCOJ from Brazil.

Background

The Commission instituted this investigation effective December 16, 1982, following a preliminary determination by the Department of Commerce that there was a reasonable basis to believe or suspect that subsidies were being provided to manufacturers, producers, or exporters of FCOJ in Brazil. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission,

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

2/ Commissioner Stern dissenting and Commissioner Haggart not participating.

3/ FCOJ is provided for in item 165.35 of the Tariff Schedules of the United States.

Washington, D.C., and by publishing the notice in the Federal Register on December 17, 1982 (47 F.R. 56528).

On March 2, 1983, however, the Department of Commerce suspended its countervailing duty investigation concerning FCOJ from Brazil because of an agreement by the Government of Brazil to offset all benefits which Commerce found to constitute subsidies with an export tax on all exports of the subject merchandise to the United States (48 F.R. 8839, March 2, 1983). Accordingly, pursuant to section 704(f)(1)(B) of the act (19 U.S.C. § 1671c(f)(1)(B)), the Commission also suspended its investigation (48 F.R. 9969, March 9, 1983).

On March 21, 1983, a request to continue the investigation was filed with Commerce and the Commission pursuant to section 704(g)(1) of the act (19 U.S.C. § 1671c(g)(1)) by counsel for the Government of Brazil. Accordingly, effective that date, the Commission continued its investigation (48 F.R. 15016, April 6, 1983). The final determination by the Department of Commerce that subsidies are being provided in Brazil to manufacturers, producers, or exporters of FCOJ was published in the Federal Register on June 6, 1983 (48 F.R. 25245). The Commission's hearing in connection with the investigation was held in Washington, D.C., on June 17, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

If the final determination by the Commission in this continued investigation had been negative, then the agreement mentioned above would have had no force or effect and the investigation would have been terminated. Because the final determination was affirmative, the agreement will remain in effect and no countervailing duty order will be issued unless the agreement is terminated or violated, or otherwise fails to meet the requirements of section 704(f)(3)(B) of the act (19 U.S.C. § 1671c(f)(3)(B)).

Views of Chairman Alfred Eckes

In this investigation I have determined that an industry in the United States is threatened with material injury by reason of imports from Brazil of frozen concentrated orange juice which have been found to be subsidized by the Government of Brazil. 1/

Domestic Industry

For purposes of this final investigation, I have adopted the definition of the "like product" accepted by the Commission in the preliminary investigation, namely frozen concentrated orange juice (FCOJ). 2/ Accordingly, I also have retained the analysis set forth in the preliminary investigation regarding the composition of the domestic industry which includes both growers of "round oranges" and processors involved in the production of FCOJ. 3/ 4/

A further question was raised during both the preliminary and final phases of this investigation as to the applicability of the "related parties" provision of the statute which states:

1/ I also made a further determination in this investigation that material injury would not have been found in this investigation but for any suspension of liquidation of entries of FCOJ from Brazil. This determination was made in conformance with the requirements of the statute; Commerce has already terminated the suspension of liquidation, and therefore, this further determination is superseded by that termination. (48 F.R. 8841, Mar. 2, 1983).

2/ See "Views of the Commission," Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Preliminary), USITC Pub. No. 1283, p. 3-4.

3/ Id., pp. 4-7.

4/ During the course of this investigation, parties did not argue for a differing analysis of the appropriate "like product," and corresponding "domestic industry."

When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry. 5/

The record in this investigation indicates that several domestic processors do import a substantial amount of FCOJ from Brazil. Assuming this importer status demonstrates a sufficient degree of "relatedness" the remaining question is whether the circumstances are appropriate for the Commission, in its discretion, to exclude these processors from the scope of the domestic industry. The legislative history suggests at least one circumstance where exclusion would be appropriate is that situation where a domestic firm which also imports is unaffected by the imported goods because imports have been so directed as to not compete with those related domestic producers. 6/ There is no indication that importers have been isolated from the impact of imports or that their economic performance is different from other producers in this industry. According to the record in this investigation, there is no suggestion that those producers which import FCOJ from Brazil have different profit and loss records than companies importing lesser amounts of FCOJ or no imports at all. 7/ Therefore, I conclude that it is not appropriate in this investigation to apply the "related parties" provision, and therefore include all domestic growers and domestic processors within the scope of the domestic industry.

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

6/ S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979).

7/ Memorandum from the Office of Investigations to the Office of the General Counsel dated June 29, 1983 which provides a comparison of profitability data. (Attached to GC-G-173).

Condition of the Domestic Industry

Information developed during the course of this investigation demonstrates that domestic orange producers are still recovering from the unprecedented back-to-back freezes in 1980/81 and 1981/82. Florida growers account for almost all round oranges used in the production of FCOJ. About 85 percent of the Florida round orange crop is used to produce FCOJ. Florida production increased from 164.0 million boxes in 1978/79 to 206.7 million boxes in 1979/80, then declined to 172.4 million boxes in 1980/81 following a freeze. Production decreased to 125.8 million boxes in 1981/82 as the result of the second freeze. Estimated production in 1982/83 will be about 142.2 million boxes, still well below the pre-freeze level achieved in 1978/79. Because of favorable growing conditions, recovery to pre-freeze production levels should occur after the next two to three crop years.

Domestic production of FCOJ from Florida oranges followed similar trends, with estimated 1982/83 production recovering to 707.0 million gallons, which is also below pre-freeze levels. The 1982/83 levels are high because of somewhat higher yields from the 1982/83 crop, when compared with years in which there was no freeze. 8/ Available data regarding domestic shipments of FCOJ indicate a 14 percent increase from 1978/79 to 1979/80, followed by a decline in shipments through 1980/81 and 1981/82, returning to 1978/79 levels. Data are available from Commission questionnaires regarding average unit values received by growers for round oranges delivered to processors.

8/ Staff memorandum dated July 7, 1983.

Data regarding prices received by growers from cooperatives and prices assigned by companies owning groves indicate that 1981/82 prices are below 1978/1979 levels; these price data cover about 40 percent of production. Oranges sold under participation plans received higher prices in 1981/82, as would be expected in a period of short-fall, since under such plans growers are free to search for the best available price, unlike cooperative members and processing companies which own groves. Likewise, cash prices, which account for about 15 percent of orange production, have also increased in 1981/82 over earlier years, as growers selling on this basis have apparently been able to take advantage of short-falls in domestic oranges production.

Financial data were received from 18 domestic producers regarding their FCOJ operations, accounting for 69 percent of U.S. shipments. Twelve of these producers were corporations, accounting for 39 percent of U.S. shipments. In the aggregate, the ratio of operating profit to net sales increased from 7.2 percent in 1979 to 9.0 percent in 1981, then decreased to 6.5 percent, with four firms reporting operating losses in 1982 as compared with one in each of the years 1980 and 1981. Favorable financial data for one corporation accounts for a substantial share of aggregate profit levels of these corporations. 10/ When that company's data is excluded, the ratio of net sales to operating profit for the remaining corporate processors in 1982 is substantially lower than the

10/ Based on staff conversation with one company, this favorable performance is the result of that firm's ability to charge a premium price for its product based on brand identification, which processors packing only private labels are unable to do.

ratio for earlier years. Financial data on the operations of six domestic cooperatives which account for 31 percent of total U.S. shipments reflect a significant decline in the ratio of net proceeds from member and non-member sales to net sales from 1981 to 1982. The 1982 ratio is substantially lower than the ratio in 1979 and is the lowest since that year. Combining the data for these cooperatives with the above mentioned eleven corporations, comparable profitability trends for the period 1979-82 emerge for processors accounting for over half of total U.S. shipments. These data indicate that the profitability of a major portion of the domestic industry has sharply declined in 1982, reaching levels far below any other year since 1979.

Based on the above information, it is evident that the domestic industry has experienced difficulties commencing with the 1980/81 and 1981/82 freezes, and has failed to recover to the performance levels achieved in 1979/80. Specifically, profitability data indicate that the industry, has been unable to generate corresponding profitability despite improved trends in production levels.

Threat of Material Injury by Reason of Subsidized Imports

My affirmative determination in this investigation is not based on a finding of material injury by reason of subsidized FCOJ from Brazil. Although the domestic industry is clearly experiencing difficulties, the causal relationship between the present condition of the industry and subsidized imports is not sufficiently clear. However, there is information in the record of this investigation which warrants an affirmative finding

based on the threat of material injury by reason of these imports. In making my determination, I have considered the relevant statutory provisions, legislative history, and judicial review of earlier Commission decisions.

With regard to the Commission's consideration of a threat of material injury, the legislative history accompanying the relevant statutory provision concerning material injury 11/ states in part:

In determining whether an industry in the United States is threatened with material injury, the ITC will consider the likelihood of actual material injury occurring. It will consider any economic factors it deems relevant, and consider the existing and potential situation with respect to such factors. An ITC affirmative determination with respect to threat of material injury must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture. The "threat of material injury" standard is intended to permit import relief under the countervailing duty and antidumping laws before actual injury occurs and should be administered in a manner so as to prevent actual injury from occurring. Relief should not be delayed if sufficient evidence exists for concluding that the threat of injury is real and injury is imminent.

Economic factors which may indicate that a threat of material injury is present vary from case to case and industry to industry. The ITC will continue to focus on the conditions of trade and competition and the nature of the particular industry in each case. 12/

Fundamental to my consideration of the question of injury in this investigation is the agricultural nature of the domestic industry. Further reference to legislative history demonstrates that Congress was particularly sensitive to the special, complex nature of agricultural production and marketing, and the question of injury. 13/

11/ Section 771(7) of the Tariff Act of 1930.

12/ Sen. Rept. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979).

13/ Because of the special nature of agriculture, including the cyclical nature of much of agriculture production, special problems exist in determining whether an agricultural industry is materially injured. Id., p. 88.

The assessment of the impact of future Brazilian imports on this domestic industry presents special problems particularly with regard to information on pricing. The fact that many U.S. processors use Brazilian FCOJ in blends with the domestic product precludes any precise price comparisons. 14/ Further, there are no means for factoring in the price differentials related to quality differences which often exist. Finally, the nature of the retail orange juice market, which is characterized by consumer brand loyalties and competition from other juice products, precludes definitive price comparisons. For these reasons it is difficult to trace either the present or future impact of these subsidized imports on domestic pricing, which would normally be a key indicator in an injury analysis of agricultural commodities. 15/

However, there are other conditions of trade and competition with regard to this industry which show that a "threat of injury is real and injury is imminent."

14/ It should be noted, however, comparisons of pure FCOJ from Brazil and blended FCOJ from U.S. sources indicate that the Brazilian product undersold by margin of 19 percent to 24 percent during the period 1979-1982.

15/ Only one Commissioner voted in favor of issuing the report in this investigation. So that the public would have access to the data developed by staff, I elected not to oppose release of this document. Nonetheless, I have serious reservations and objections to the inclusion of essentially judgmental and theoretical analysis as part of a text which is ostensibly factual in nature. My particular concerns about the inclusion of the regression analysis in this report are developed more fully in my memorandum to the Commission (C059-G-020), dated July 12, 1983), which is in the public file of this investigation.

Analysis of import trends, present import inventory levels, projected Brazilian production for 1983/84, 16/ Brazilian carry-over and ending stocks, and Brazil's export markets, indicates that, given the present condition of the domestic industry and projected consumption trends, future imports of Brazilian FCOJ threaten the domestic industry with material injury.

Import trends--Past import trends demonstrate the ability of Brazilian imports to supply substantial amounts of FCOJ to the U.S. market, increasing by 115 percent from 1978/79 through 1981/82. Calculations comparing changes in import levels of Brazilian FCOJ with changes in the Florida production of round oranges suggest that in the past, imports have increased in those years when domestic production decreased, but these increases have consistently exceeded declines in U.S. production.

Inventory Levels--The amount of FCOJ from Brazil in bonded warehouses, in the U.S. although declining, remains significant as of April, 1983. There were 143 million gallons, single strength equivalent, in these bonded warehouses as of April, 1983, double the December, 1980 levels. This amount of FCOJ represents about 40 percent of total 1981/82 imports.

Brazilian Production and Stocks--According to USDA information, the 1983/84 Brazilian FCOJ production will be 686 million gallons, which will result in ending stocks of 223 million gallons, unless exports are increased. The

16/ Brazilian processing of orange juice extends from July to June, so that processing is already underway for Brazilian crop year 1983/84. 10

estimates by USDA of Brazilian storage capacity is currently 420-490 million gallons. Given the projected carry-over of 223 million gallons, as of June, 1984, available storage will soon be filled in the next Brazilian crop year as processing begins in July, 1984.

Export markets--Analysis of Brazil's export markets indicates that the U.S. market over the past five years has been the largest export market for Brazilian FCOJ. The U.S. share of Brazilian exports was 44 percent in 1978, 25 percent in 1979, and 20 percent in 1980. In 1981, that share increased to 41 percent, and in 1982 it reached 57 percent, which suggests increasing reliance on the U.S. market. One explanation for this reliance is Brazil's acute and increasing need for major export items, such as FCOJ, to earn essential foreign exchange dollars for foreign debt requirements. All other export markets have contracted markedly during 1982, particularly the EC market, the second largest market. Unrebutted information in the record indicates that Brazilian prices are lower in the EC market, providing further incentive for export to the United States.

Threat Posed by Imports--Historically, Brazil has exported a very substantial portion of its production. Brazilian consumption which accounts for less than 5 percent of Brazilian production, has been essentially flat during the past four crop years and there is no information suggesting it will change.

Given the constraints imposed by the cost and physical limitations of storage facilities, as well as limited export markets, the incentive is present and real to export at least historical if not increased amounts to the U.S. Exports to the U.S. at past levels will be injurious, as domestic production continues to recover to pre-freeze levels. Such imports will no longer supplement short-fall in production, but will begin to displace recovering domestic production. The impact of this displacement will be magnified by the fact that U.S. consumption trends have essentially been flat for the past four crop years and there is nothing in the record which would argue any significant change in those trends.

Further, it appears from the first quarter 1983 import data that increasing amounts of Brazilian imports are being targeted to reconstituters and repackagers outside of Florida, rather than being sold to Florida-based processors for use in blends with the domestic product. If this displacement trend continues, and there is nothing to suggest that it will not, the inevitable result is that as domestic production recovers, less of the domestic product will be consumed.

Subsidy Consideration--The statute provides a special rule for the purpose of making injury determinations:

(I) Nature of Subsidy.--In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

The legislative history suggests that this consideration "... is particularly relevant with respect to export subsidies inconsistent with the Agreement on Subsidies and Countervailing Measures, which are inherently more likely to threaten injury than are other subsidies." The administering authority found in this investigation that two Brazilian programs conferred export subsidies and are countervailable--preferential working capital financing for exports and income tax exemption for export earnings. Both programs are designed to promote exports and are tied to export performance. Both have been found to be countervailable in previous investigations involving Brazilian products, and both have been the subject of an affirmative injury determination by the Commission. 17/

Conclusion

As a final consideration in my determination, I have considered the judicial review of the Commission's determination in an earlier antidumping investigation, 18/ Alberta Gas Chemicals, Inc. v. United States, 515 Fed. Supp. 780 (1981) (hereinafter "Alberta Gas"), particularly the Court's discussion of the relevant language "real and imminent" in conjunction with a determination of a threat of material injury. In "Alberta Gas", the court asserted that the "majority's finding concerning expanding supplies was based upon the possibility that AGCL might, at some future time, construct new production facilities." and "that central to the majority's determination of likelihood of injury is AGCL's expansion plans." In analyzing the majority's views, the Court concluded that:

17/ See Certain Tool Steels from Brazil, Inv. No. 701-TA-187 (USITC Pub. No. 1403), July, 1983.

18/ Methyl Alcohol from Canada, Inv. No. AA1921-202 (USITC Pub. No. 986) 1979.

As stressed in the dissenting statement, AGCL's expansion plans were uncertain and depended upon several contingencies, and indeed, financing had not even been arranged. More to the point is the undisputed fact that even if AGCL had immediately decided to expand its production facilities, production in such facilities could not commence until 1982 at the earliest, assuming there were no unforeseen delays.

In this investigation, the "conditions of trade and competition and the nature of the particular industry" differ markedly from the "Alberta Gas" investigation. There is no uncertainty regarding the number of orange groves of bearing age in Brazil, the levels of production, carry-over stocks, and accessible export markets. Expansion plans are not central to the threat found in this investigation.

As to whether the prospect of imports is "imminent," certainly such a consideration must reflect the inherent cyclical nature of this agricultural product. It is certain that with each crop year, vast quantities of Brazilian FCOJ will continue to be available for U.S. consumption because of sizeable inventories already in the United States, considerable carry-over stocks in Brazil, and the continued production of oranges.

Unlike the situation in "Alberta Gas", exporters of Brazilian FCOJ clearly have the present ability and incentive to divert available carry-over stocks and future production of FCOJ to the United States. As noted above, other export markets are not expanding, and in fact the second largest market contracted sharply in 1982. Moreover, information in the record, which stands unrebutted, indicates that Brazilian prices are lower in other export markets, providing further incentive to direct exports to the U.S. and maintain its established penetration levels at the cost of

recovering domestic production. Given the commodity nature of FCOJ and the absence of a quality advantage for the Brazilian product, Brazilian exports can only continue to maintain their presence in the U.S. market by underselling as domestic production returns to normal levels. As noted earlier, information suggests that Brazilian FCOJ now undersells the blended domestic product.

Finally, there is no uncertainty in this investigation regarding future consumption trends. There is no evidence on the record pointing to future expansion in the consumption of FCOJ in the United States or world-wide. Therefore, as the domestic industry attempts to recover to pre-freeze production and profitability levels, the existence of flat domestic consumption means that given the conditions of trade as discussed above, Brazilian exporters will be certain to displace domestic production with subsidized imports.

VIEWS OF COMMISSIONER PAULA STERN

The financial health of the FCOJ industry fluctuates with the winter weather in Florida where a substantial majority of all round oranges are grown. In freeze years, prices for round oranges and FCOJ rise slightly immediately after a freeze and soar the following year when the short supply of fruit from damaged trees is most felt. This is part of an historical trend evidenced by freezes which occurred in 1962-63, 1970/71, and 1976/77. In the last two years, however, Florida and the FCOJ industry encountered unprecedented, consecutive freezes. Attempting to minimize the damage caused by the short supply of fruit, domestic processors have purchased an increased amount of Brazilian FCOJ. Nearly all of the domestic processors, many of whom are also growers, are importers of Brazilian FCOJ. The imports have provided the domestic producers with a supplementary source of FCOJ, reduced costs and prevented consumers from switching to alternative products. Rather than injuring the domestic industry, the Brazilian FCOJ has provided a buffer for the domestic producers against the otherwise disastrous impact of the back-to-back freezes.

In the case before the Commission, I agree with my colleague that no present material injury exists in this industry and that there would not have been material injury had the suspension of liquidation of entries of the Brazilian FCOJ not occurred. The only area of disagreement regards threat of material injury. Imports of Brazilian FCOJ are neither a cause of present material injury nor a threat of material injury to the domestic FCOJ

industry. 1/ All economic trends indicate that the health of the domestic FCOJ industry is on an upswing commensurate with the improved growing conditions. Imports into the United States have decreased since the end of the double freeze period, supporting the belief that increased imports were a supplemental response to decreased domestic supply.

Definition of the domestic industry

The domestic industry against which the impact of allegedly subsidized imports is to be assessed is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 2/ "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . ." 3/

The imported product under investigation is FCOJ from Brazil. Domestic FCOJ is virtually the same as the imported product. Both Brazilian and domestic FCOJ are produced from "round" oranges, as distinguished from eating oranges. FCOJ is also distinct from both fresh and canned orange juice. In accordance with the Commission's preliminary investigation, I therefore define the like product to include only frozen concentrated orange juice and to exclude eating oranges, fresh orange juice, and canned orange juice.

1/ The question of whether imports have materially retarded the establishment of a domestic industry is not at issue in this investigation.

2/ 19 U.S.C. § 1677(4)(A).

3/ 19 U.S.C. § 1677(10).

In agricultural product cases, defining the domestic industry presents a particular problem. Congress foresaw the special problems of agricultural industry definition when it gave the Commission authority to consider including both growers and producers in one industry. 4/

The Commission, however, has not always seen fit to include the growers as members of the domestic industry. Commission precedent for processed agricultural products has followed two lines of cases, one including only processors, and the other including the grower as well as the processor. The Commission has defined the industry to include only processors when the agricultural product can be sold in more than one market. 5/ When the agricultural product enters a single, continuous line of production resulting in one end product, the Commission has found a highly integrated industry to include both growers and processors. 6/ In neither approach, however, has

4/The Senate Finance Comm. stated in the Committee report on the Trade Agreements Act of 1979:

Because of the special nature of agriculture, . . . special problems exist in determining whether an agricultural industry is materially injured. For example, in the livestock sector, certain factors relating to the state of a particular industry within that sector may appear to indicate a favorable situation for that industry when in fact the opposite is true. Thus, gross sales and employment in the industry producing beef could be increasing at a time when economic loss is occurring, i.e., cattle herds are being liquidated because prices make the maintenance of the herds unprofitable. S. Rept. No. 249, 96th Cong., 1st Sess. 88 (1979).

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

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

the Commission viewed the domestic industry as only the growers of a processed agricultural product, because the raw product of the grower is not a "like product" of the processed product.

In the present case, the majority of round oranges is used solely in the single, continuous line of production of one-end-product, FCOJ. The high level of interlocking ownership in the industry, evidenced by grower-owned cooperatives and processor-owned growers, provides further reason for including both growers and processors. I therefore find the domestic industry to consist of both growers of round oranges and processors of FCOJ.

Another issue in defining the industry involves application of the "related party" provision of section 771(4)(B) of the Tariff Act of 1930.

This provision states:

When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry. 7/

The related parties provision involves a two step determination: (1) whether the domestic producers are themselves importers of the subject product or are related to the importers or foreign producers of such product through a corporate relationship; and (2) whether there are appropriate circumstances for excluding these domestic producers from the domestic industry for the injury analysis.

The legislative history and the underlying policies of the statute provide boundaries within which the Commission can apply its discretion

regarding appropriate circumstances. The Commission is not to include domestic manufacturers if their relation to the importers protects them from injury and including them would skew injury data. Nor are domestic producers to be excluded if they constitute such a major proportion of the total industry that their exclusion would severely distort industry data. 8/ Even if the above factors indicated appropriate circumstances, the benefits derived by related producers from dumped or subsidized imports should be so significant that the producer concerned behaves differently from other producers in the industry. 9/

In the case currently before the Commission, none of the domestic producers of FCOJ have any corporate relationship to the foreign producers or exporters of FCOJ in Brazil, but they may be considered related because of their importer status. Domestic FCOJ producers import varying percentages of their total FCOJ production. Some domestic producers have ongoing contracts for a set quantity of FCOJ, while others only import on an emergency basis after a freeze. There is no clear division of the domestic producers according to relatedness on the above basis. However, it may be possible to distinguish between them and to determine that some are related to the foreign producers.

Nevertheless, "appropriate circumstances" do not exist to warrant excluding some domestic producers from the definition of the industry. No producer receives benefits of such a nature that it behaves differently from

8/ Section 771(4)(a) requires that the domestic industry must be at least "those producers whose collective output constitutes a major proportion of the total domestic production of that product."

9/ Draft Report to the GATT on Anti-Dumping Practices and to the Committee on Subsidies and Countervailing Measures, May, 1980, paragraph 8(c).

other producers in the industry. Indeed, the record shows no correlation between imports and the financial health of those companies having high import to production ratios. While some of these firms enjoyed comparatively high modest profits, others faced losses.

I therefore do not apply the related parties provision to this case, but rather include all domestic producers as members of the domestic industry.

Condition of the Domestic Industry

The condition of the domestic industry has declined in the last two years following the historical pattern of the FCOJ industry in freeze years. Similar declines followed the freezes in the 1962/63, 1970/71, and 1976/77 seasons. Production of oranges normally does not recover fully to its prefreeze level until three to five years after a freeze. 11/ In the current situation, because of excellent growing conditions, the recovery period is expected to be shorter. 12/

The statistics on indices of injury gathered by the Commission parallel the expected pattern. The record indicates that production, capacity, domestic shipments, exports, research and development expenses, and profits of the FCOJ industry increased continuously until 1979/80. 13/ Since that year because of the two consecutive freeze seasons, these indicators have shown decline. 14/

11/ Id. at A-13.

12/ Id.

13/ Report at A-13-20.

14/ Id.

Since Florida represents 85 percent of the U.S. total, U.S. production of round oranges follows the trend for Florida. 15/ Total production for both declined during consecutive freeze years, 1980/81 and 1981/82, after an increase in the year before the freezes from 1978/79 to 1979/80. Production recovered more rapidly in 1982/83 following the last of the freezes. 16/ Processing capacity in the FCOJ industry has increased steadily from 1979 to 1983.

Domestic shipments also increased from 1978/79 to 1979/80 and then fell slightly over the next two years as a result of declining production following the consecutive freezes. 17/ U.S. exports have exhibited an overall increase of 47 percent between 1978/79 and 1981/82, despite a 17 percent drop from 1980/81 to 1981/82. 18/ Operating and gross profits for twelve representative corporations fluctuated between 1979 and 1981 and then fell sharply in 1982. 19/ The trend for cooperatives was similar to that of corporations. 20/ Six of the eighteen U.S. processors that responded to the Commission's questionnaire reported a five-fold increase in research and development expenditures. 21/ In addition, investment in productive facilities increased continuously from 1979 to 1982. 22/

The industry has obviously suffered a setback from recent adverse weather. Although two processors have gone bankrupt because they were unable

15/ Id. at A-12-13.

16/ Id.

17/ Id. at A-15.

18/ Id. at A-15-17.

19/ Id. at A-18.

20/ Id.

21/ Id. at A-20.

22/ Id. at A-22-23.

to obtain a sufficient supply of oranges, 23/ and several others have suffered losses, other indicators of the financial health of the industry demonstrate that the decline is only temporary, and that the industry's health will improve in the next several years as it recovers from the freezes.

No material injury by reason of subsidized imports

In making its determination on material injury, the statute requires the Commission to consider the volume of the subject imports, the impact of the imports on the price of the domestic product, the effect of the imports on the domestic industry, and any other relevant factors. 24/

The volume of imports of FCOJ from Brazil has risen during the period under investigation. 25/ The largest increases occurred during the 1980/81 and 1981/82 crop years and has resulted in greater market penetration. 26/ The ratio of Brazilian imports to total available FCOJ decreased in 1979/80 but then increased over the next two freeze-year seasons. Over the period, the penetration level was highest in the worst domestic crop year and lowest in the best domestic crop year. 27/

Price comparisons of imported and domestically produced FCOJ are difficult to make directly since most domestic FCOJ is a blend of imported and

23/ Id. at A-10.

24/ 19 U.S.C. section 1677(7)(B).

25/ Report at A-24.

26/ In this case, market penetration was calculated as the ratio of imports from Brazil to total available FCOJ. The traditional market penetration analysis is inappropriate here because of the difficulty in determining the portion of exported FCOJ that consists of the imported product. Id. at A-26-27.

27/ Id. at A-26

domestic FCOJ. The prices of domestic oranges and FCOJ have increased significantly but erratically from the 1961/62 season to the 1981/82 season. 28/ The price of both products consistently increased during seasons in which freezes occurred and in the seasons immediately following the freezes. 29/ The average price increase of FCOJ between 1979 and 1982 was commensurate with price increases for related products. 30/ These figures suggest that imports have not undercut domestic prices, depressed prices, or prevented price increases which otherwise would have occurred.

An econometric analysis performed by the staff further substantiates that the subsidized imports did not depress or prevent an increase in domestic prices. The analysis, which was based upon the result of five regression equations, examined the effects of prices and output levels of domestic oranges and prices and levels of imports of frozen concentrate from Brazil on prices and domestic shipments of FCOJ. Two important results emerged from the analysis. First, the estimates indicated that the back-to-back freezes in 1980/81 and 1981/82 resulted in significantly higher prices of FCOJ. If freezes had not occurred in these years, the estimates show that the price of FCOJ would have increased only moderately from its 1979/80 level of \$3.04 per dozen 6 ounce retail cans to \$3.13 in 1980/81 and \$3.17 in 1981/82. However, as a result of the freezes, the actual prices jumped by almost 30 percent to \$3.91 in 1980/81 and then increased further to \$3.98 in 1981/82. This occurred despite the sharp increases in imports in both of these years. 31/

28/ Id. at A-29 and 31.

29/ Id.

30/ Id. at A-31.

31/ Id. at A-40.

Second, the analysis indicates that the effects of the subsidy on the price of FCOJ were minimal in both 1980/81 and 1981/82. The estimates show that, if the price of the imported concentrate from Brazil had been three percent higher in each of these years, the domestic price of FCOJ would have been only about 1.5 percent higher in each of these years. Thus, if the subsidy which the Department of Commerce has found to exist of 2.77 percent valorem had not been in place during the 1980/81 and 1981/82 crop years and the price of imports had been higher by a corresponding percentage, the domestic price of FCOJ would have been less than one and one-half percent higher, at most. At this level, it is also possible that the price of imported concentrate from Brazil was not affected at all. If so, the subsidy had no effect on the domestic price of FCOJ.

Domestic processors have suggested that the bankruptcy of two processors and declining profits of others have been caused by lower-priced, subsidized imports. In an ordinary situation, it might be that lower priced imports could help drive domestic producers out of business. In this situation, however, instead of directly competing with the imports, the processors use the imported product as a primary ingredient to form one end product. High levels of importation always occur when domestic supplies of resources are scarce and therefore expensive. Without lower-priced imports to supplement the decline in domestic supplies, more processors would have gone out of business or suffered greater losses as a portion of the market would have been lost to alternative products. In fact, the two processors who went bankrupt specifically stated the cause to be lack of sufficient raw material to produce

Instead of causing material injury, the imported FCOJ actually lessened the adverse effects of the freezes, which were the true cause of injury to the industry. In addition, the Commission's econometric analysis demonstrates that the freezes were the cause of increased importation, since absent a freeze, domestic production would have been higher and prices lower. 32/ With prices of domestic oranges lower in relation to imported concentrate, imports would have increased only moderately. 33/

While domestic processors made allegations of both lost sales and lost revenues due to the price of Brazilian imports, 34/ the Commission has not been able to confirm or substantiate any of these allegations. 35/

For these reasons, I do not find present material injury by reason of the subsidized imports from Brazil.

No Threat of Material Injury by Reason of Subsidized Imports

A threat determination includes an evaluation of the rate of increase of the subsidized exports to the U.S. market, the capacity of the exporting country to generate exports, and the likelihood that such exports will be directed to the U.S. market. Congress has stated that a threat determination must include "information showing that the threat is real and injury imminent, not a mere supposition or conjecture." 36/ The Court of International Trade in discussing Congress' standard in Alberta Gas 37/ stated that speculation on

32/ Id. at A-40-41.

33/ Id.

34/ Id. at A-41-43.

35/ Id.

36/ S. Rep. No. 249, 96th Cong., 1st Sess. 88, 89 (1979) and H.R. Rep. No. 317, 96th Cong., 1st sess. 47 (1979).

37/ Alberta Gas Chemicals, Inc. v. United States, 515 F.Supp. 780 (1981).

the possibility of injury in the future would not meet the "real and imminent" standard enunciated by Congress. 38/

Petitioner's primary argument regarding threat is that the Brazilian government will readjust the amount of the export tax, the export quota, or the minimum export price in a manner which will cause it injury. 39/ Petitioner also argues that the level of imports has increased dramatically, that there is a growing supply of FCOJ in bonded warehouses in the United States, and that Brazil has the capacity to generate further exports. 40/

Petitioner has not provided any evidence for its assertion that the Brazilian government will readjust the export tax, export quota, or minimum export price. Respondent, on the other hand, refutes petitioner by providing the Commission with the specific terms that the Brazilian Government is now negotiating for the 1983/84 crop year with the FCOJ industry: (1) the FOB price will remain at the same level as in the past two years, US\$ 1100 per metric ton, (2) the total quantity exported is expected to drop from 565,000 metric tons to 400,000 metric tons plus 50,000 tons from carryover stocks; (3) the export tax will remain at 20 percent; (4) the mandatory price for fruit will be approximately Cr\$ 800 per box; (5) the eligibility rate for Resolution 674 financing will remain the same, but the preferential interest rate will rise to 60 percent per year. 41/ These proposals are in line with the prior activity of the Brazilian government.

38/ Id. at 791.

39/ Petitioner's Posthearing Brief at 8-9.

40/ Id. at 9.

41/ Respondent's Pre-hearing brief at 8.

Further, an analysis of the rate of increase of imports does not indicate that imports will increase dramatically in the future. Rather, changes in import levels of Brazilian FCOJ are directly related to changes in domestic production of round oranges. With the present recovery of U.S. orange production, no evidence exists of an impending increase in Brazilian FCOJ imports. Imports were down when the Florida crop was good in 1979/80. 42/ Imports increased from 1979/80 to 1980/81 and from 1980/81 to 1981/82 during the time of the two major Florida freezes. 43/ The rate of import increase during the period of December-April 1982/83 when the U.S. crop was recovering was again much slower. 44/ In fact, the general import level, which includes the drawdown of imports in bonded warehouses, declined from 193 million gallons in December-April 1981-82 to 123 million gallons in December-April 1982-83 of single strength equivalent. 45/ Since the domestic industry will take years to recover from the freezes, it would be expected that the level of imports would remain somewhat higher for a few years. There is no reason in the record to believe that the import trend will increase in the future.

The overwhelming majority of Brazilian FCOJ imports held in bonded warehouses belong to the domestic processors rather than to foreign producers or exporters. The FCOJ is merely being stored in bonded warehouses to allow the U.S. processor to withdraw the FCOJ and pay the high duty (43 percent ad valorem equivalent) closer to the time the FCOJ is used. 46/ Such inventories

42/ Report at A-44.

43/ Id. at A-44.

44/ Id. A-45.

45/ Id.

46/ Id. at A-44.

increased irregularly until 1980/81 when imports reached a record high. Since then, more than 20 percent of these warehoused imports have been withdrawn for consumption. 47/ There is no reason to believe that the warehoused imports reflects an intention to deluge the U.S. market in the future, thus posing a threat of material injury to the domestic industry.

Finally, although Brazil was the world's largest producer of oranges in 1981/82, the USDA estimates that production will decrease in 1982/83 crop year over the 1981/82 level and will decline further in the 1983/84 crop year. 48/ The outlook for the mid-1980's projects more moderate growth than that experienced in the past decade. 49/ It cannot be expected that Brazilian imports will flood the market.

If imports increase, the record indicates that it will most likely be in response to a Florida freeze. Long term weather forecasting is at best speculative and as discussed above, the imports in response to Florida freezes are not a cause of material injury to the domestic FCOJ industry. For these reasons, I find that there is no indication that imports from Brazil are threatening the domestic industry with material injury.

47/ Id. at A-45 and A-46.

48/ Id. at A-47.

49/ Id. at A-48.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On July 14, 1982, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from counsel on behalf of Florida Citrus Mutual (FCM), a nonprofit cooperative marketing association made up of citrus growers, alleging that subsidies are being paid with respect to the manufacture, production, or exportation of frozen concentrated orange juice (FCOJ) 1/ imported from Brazil. The Commission therefore instituted a preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of such imports. On August 30, 1982, the Commission 2/ determined that there was a reasonable indication that an industry in the United States was materially injured 3/ or threatened with material injury by reason of the allegedly subsidized imports from Brazil (47 F.R. 39740, Sept. 9, 1982).

On December 16, 1982, Commerce made a preliminary determination that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of FCOJ (47 F.R. 56528, Dec. 17, 1982). Accordingly, effective December 16, 1982, the Commission instituted investigation No. 701-TA-184 (Final) pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

On February 24, 1983, Commerce and the Government of Brazil signed a suspension agreement on the basis of which Commerce suspended its investigation and Brazil agreed to offset completely the amount of the net subsidy determined by Commerce to exist with respect to FCOJ. This agreement became effective on March 2, 1983 (48 F.R. 8839). 4/ Therefore, pursuant to section 704(f)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1671c(f)(1)(B)), the Commission suspended its investigation (48 F.R. 9969, Mar. 9, 1983). On March 21, 1983, however, a request to continue the investigation was filed with Commerce pursuant to section 704(g)(1) of the Tariff Act (19 U.S.C. 1671c(g)(1)) by counsel for the Government of Brazil. 5/ Accordingly, effective

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

2/ Commissioners Haggart and Calhoun did not participate in this determination.

3/ Commissioner Stern found only a reasonable indication of threat of material injury.

4/ A copy of the suspension agreement is presented in app. A.

5/ A request to continue the investigation was filed with the Commission on the same date.

March 21, 1983, the Commission continued its investigation concerning FCOJ from Brazil (48 F.R. 15016, Apr. 6, 1983).

On May 31, 1983, the Department of Commerce made its final determination that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Brazil of FCOJ (48 F.R. 25245, June 6, 1983). 1/ Therefore, as directed by the statute, the Commission must render its final determination concerning injury in this case before the 45th day after the day on which it received notification from Commerce of its affirmative final determination, by July 14, 1983.

In connection with the Commission's investigation, a public hearing was held in the Commission's Hearing Room in Washington, D.C., on June 17, 1983. 2/ Notice of the institution of the investigation was given by post copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on December 29, 1982 (47 F.R. 58051). Notice of the scheduling of the hearing was given by posting copies of the notice in the Office of the Secretary and by publishing the notice in the Federal Register on June 6 (48 F.R. 25279). 3/ The Commission voted on this investigation on July 11, 1983.

As noted by the Department of Commerce in its final determination, the ITC determines that material injury, or threat of material injury, not exist, the (suspension) agreement will have no force or effect and investigation will be terminated. However, if the ITC determines that injury does exist, the suspension agreement will remain in force, and not issue a countervailing duty order as long as the requirements of 704(f)(3)(B) of the Act are met."

Nature and Extent of Bounties or Grants

As stated, Commerce published its final affirmative countervailing determination on June 6, 1983. The full text of Commerce's final determination is presented in appendix A of this report. Commerce found that the programs confer export subsidies. These programs, and the subsidies conferred, are as follows:

| <u>Programs</u> | <u>Subsidy</u> <u>(percent ad val)</u> |
|---|---|
| Preferential working capital financing for exports----- | 1.64 |
| Income tax exemption for export earnings----- | 1.13 |
| Total----- | 2.77 |

of Commerce's final determination is also presented in appendix A of this report. Commerce found that the programs confer export subsidies. These programs, and the subsidies conferred, are as follows:

The estimated net subsidy of 2.77 percent ad valorem was calculated by measuring the subsidies provided to the three largest producers and exporters of FCOJ in Brazil during their 1981 fiscal years. Subsequent to this period, in February 1983, the Government of Brazil increased the subsidy provided under the preferential working capital financing for exports program to an estimated 2.38 percent ad valorem. Therefore, Commerce increased the estimated net subsidy for 1983 to 3.51 percent ad valorem, and notified the Government of Brazil that it must impose an export tax of this amount to meet the terms of the suspension agreement. 1/

The Product

Description and uses

Orange juice is derived from the fruit of subtropical evergreen trees of the sweet orange species, genus Citrus, family Rutaceae. The principal varieties of sweet oranges used for processing into juice differ by growing area, and include the Pineapple and Valencia 2/ in Florida and the Valencia and some Washington navel in California. The composition (i.e., color, flavor, fragrance, juice content) of fresh oranges is affected by such factors as growing conditions, various treatments and horticultural practices, maturity, rootstock and variety, and climate. Thus, the juice produced from the same variety in different growing areas will commonly vary in composition.

FCOJ is produced by extracting the juice from fresh oranges, evaporating natural moisture from the juice until a desired level of concentration is achieved, and then freezing the concentrate. 3/ FCOJ is usually produced in a super concentrated form referred to as frozen concentrated orange juice for manufacturing (FCOJM). FCOJM is the principal product stored at a processing facility and also is the principal product shipped in bulk. The use of FCOJM in these applications saves space and weight, respectively, over FCOJ. However, FCOJM is not sold at the retail or institutional level. Instead, FCOJM is reprocessed through the addition of water into FCOJ before being packaged in retail-size or institutional-size containers for shipment. The most popular retail-size containers are 6, 12, and 16 ounces; institutional containers are generally 24 and 32 ounces.

The concentration level of FCOJ and FCOJM is expressed by Brix value. 4/ Single-strength orange juice is rated at 11.8° Brix; FCOJ is generally rated

1/ See the letter of Apr. 18, 1983, reproduced in app. A, from Gary Horlick, Deputy Assistant Secretary of Commerce for Import Administration, to Mr. Luiz Felipe P. Lampreia, Minister-Counselor, Brazilian Embassy.

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

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

4/ Brix value is the refractometric sucrose value (sugar content of ^{A-3} oranges expressed in percent by weight of solids), as measured in air at 20° centigrade and adjusted for the acid correction of the solids.

at 41.8° to 47.0° Brix; and FCOJM is concentrated above 47.0° Brix, usually 65.0°. 1/ For human consumption, FCOJ requires a 3-to-1 dilution with water to reach single strength. By comparison, FCOJM requires approximately a 7-to-1 dilution with water.

All FCOJ which is prepared in the United States must meet the Food and Drug Administration's (FDA) Standards of Identity. 2/ By comparison, all FCOJ prepared in Florida must meet Florida Citrus Code Standards, which are much more exacting than those promulgated by the FDA. 3/ For example, the FDA standards include no requirements regarding minimum maturity, flavor, color, oil content, or gelation, and the Florida standards do. The Florida standards are enforced by Florida Department of Agriculture inspectors who inspect the fruit both when it enters the processing plant and when it has been converted to FCOJ. 4/

Although the majority of the imported product is blended with domestic product, it is sometimes repacked and shipped to consumers without blending. Of the 24 processors that responded to a question in the Commission's questionnaire relating to quality differences between the two products, 10 stated that the Brazilian product is equal to the domestic. 5/6/ The 10 respondents who stated that the domestic product was superior cited flavor and taste as the reasons.

Manufacturing process

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

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

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

2/ A copy of the FDA's Standards of Identity for FCOJ is presented in appendix D.

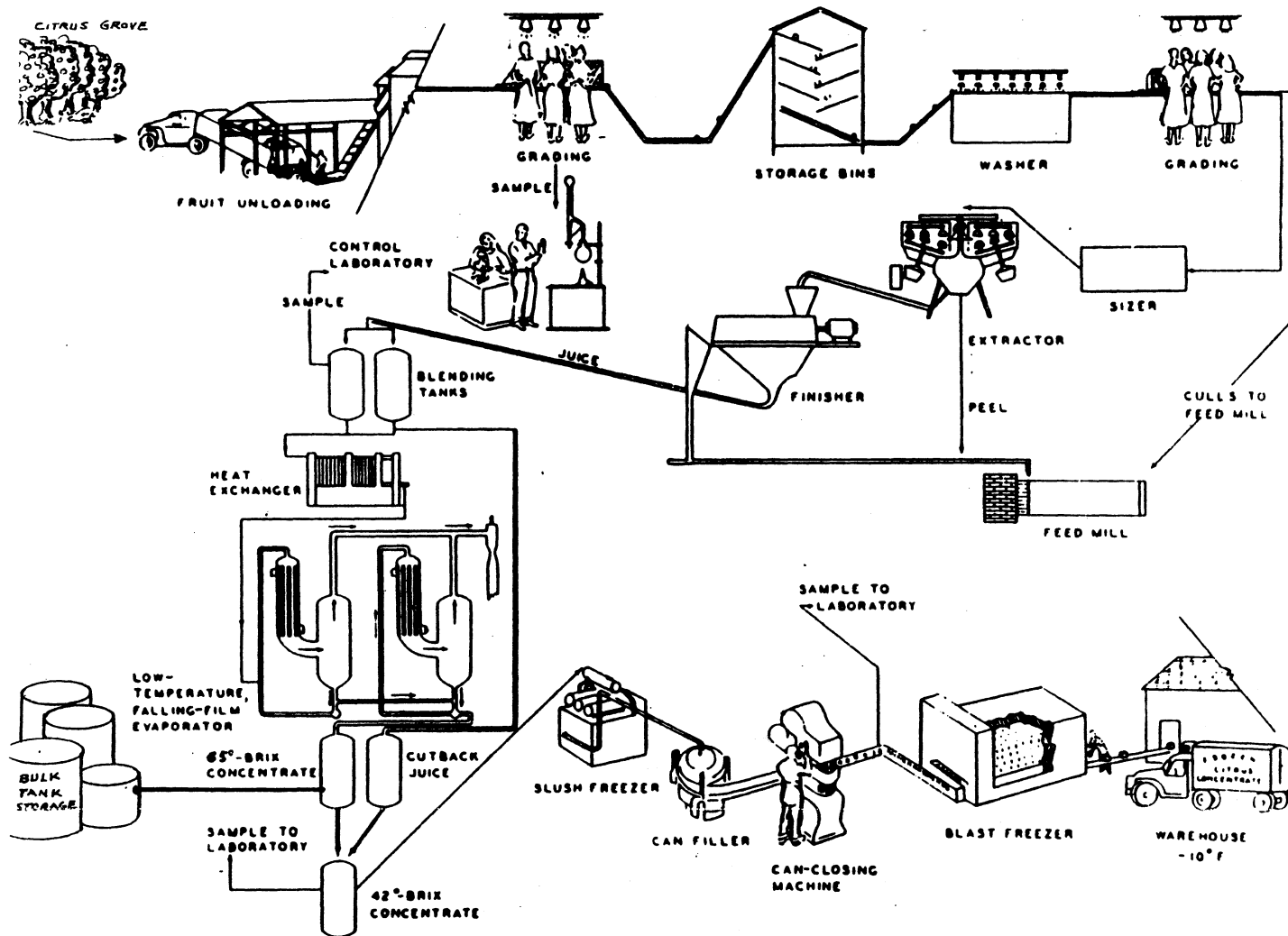
3/ A copy of the Florida Citrus Code Standards for FCOJ is presented in appendix E.

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

5/ It should be noted that in the preliminary investigation, 14 of 16 responding processors stated that the Brazilian product was inferior to domestic. ^{A-4}

6/ Two of the respondents in the current investigation stated that the reason there is no quality difference between the imported and domestic products is that they specify the quality of the imported FCOJ when making

Figure 1.--Flow chart for the manufacture of FCOJ.



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

U.S. tariff treatment

U.S. imports of FCOJ are classified under item 165.35 of the Tariff Schedules of the United States (TSUS). Imports from Brazil and all other countries receiving the column 1 rate of duty 1/ are dutiable at 35 cents per gallon 2/ (43.3 percent ad valorem equivalent in 1982). This rate has been in effect since 1948 and is not scheduled for reduction. Imports from countries receiving the column 2 rate of duty are dutiable at 70 cents per gallon. Imports from beneficiary developing countries are not eligible for duty-free entry under the GSP, nor are reduced rates for imports from LDDC's available.

Processors that both import and export FCOJ are eligible to obtain a refund on certain import duties paid, which is called drawback. 3/ Under the Tariff Act of 1930, a manufacturer that imports merchandise and then exports products which were produced with the imported merchandise is eligible to receive a refund on the duties paid on the imports, less 1 percent (19 U.S.C. 1313(a)). 4/ Additionally, if both imported and domestic materials of the same kind and quality are used within a specified period to produce a

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

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

3/ Drawback can also be collected on exports of single-strength orange A-6 juice, provided that either single-strength orange juice (either domestic, imported, or a blend), or water, oil, and essence are added to the imported FCOJ.

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

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

According to the U.S. Customs Regional Headquarters in Miami, Fla., orange processors filing claims in that region received *** million in drawback in 1981, and *** million in drawback in 1982. As drawback may be claimed in any customs region, the total amounts of drawback paid to processors during these periods were undoubtedly higher.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

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

Total available FCOJ 2/ increased from 1.1 billion gallons in crop year 1978/79 3/ to 1.3 billion gallons in 1979/80, but then decreased to 1.2 billion gallons in 1980/81 (table 1). Total available FCOJ in 1980/81 was

Table 1.--FCOJ: Production from Florida crop, imports, carryover stock, and total available FCOJ, by crop years, 1978/79 to 1981/82

| (In millions of gallons) <u>1/</u> | | | | |
|------------------------------------|--|-------------------|------------------------------|---------------------------|
| Crop year | Production from: Florida crop <u>2/</u> | Imports <u>2/</u> | Carryover stock <u>3/</u> | Total avail- able FCOJ |
| 1978/79----- | 758.2 | 172.8 | 135.4 | 1,066.4 |
| 1979/80----- | 1,012.9 | 102.7 | 163.8 | 1,279.4 |
| 1980/81----- | 733.1 | 208.4 | 240.3 | 1,181.8 |
| 1981/82----- | 533.2 | 374.1 | 278.6 | 1,185.9 |

1/ Single-strength equivalent.

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

3/ From prior season.

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

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

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

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

influenced by the large carryover in that year from 1979/80 (an excellent crop year), as well as sharply higher imports, without which the decline would have been much greater. Total available FCOJ remained at 1.2 billion gallons in 1981/82, due to increased imports during that year and the large carryover from 1980/81.

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

| <u>Crop year</u> | <u>Quantity</u> (billion gallons) <u>1/</u> |
|------------------|--|
| 1978/79----- | 1.0 |
| 1979/80----- | 1.2 |
| 1980/81----- | 1.1 |
| 1981/82----- | 1.1 |

1/ Single-strength equivalent.

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

| <u>Year</u> | <u>FOJ consumption</u> (pounds per person) |
|-------------|---|
| 1979----- | 30.5 |
| 1980----- | 31.9 |
| 1981----- | 30.3 |
| 1982----- | <u>1/</u> |

1/ Unavailable until July 1983.

Assuming that an average gallon of orange juice weighs approximately 8 pounds, per capita consumption over the period 1979-81 averaged about 3.8 gallons per year.

U.S. producers

Growers.--U.S. orange growers are located almost entirely in the States of Florida, California, Texas, and Arizona. From crop years 1977/78 to 1981/82, Florida accounted for about 90 percent of the oranges that were used for processing. Almost all of the oranges processed in Florida are utilized in the production of FCOJ. It is estimated that there were nearly 15,000 growers in Florida producing oranges on a total of 569,500 acres in crop year 1981/82 (table 2).

Table 2.--Florida, California/Arizona, and Texas acreage in oranges, by crop years, 1977/78 to 1981/82

| State | 1977/78 | 1978/79 | 1979/80 | 1980/81 | 1981/82 |
|-------------------------|-----------------------|---------|---------|---------|---------|
| | -----1,000 acres----- | | | | |
| Florida----- | 579.0 | 571.5 | 576.6 | 573.4 | 569.5 |
| California/Arizona----- | 204.2 | 199.6 | 201.5 | 195.9 | 192.9 |
| Texas----- | 28.2 | 27.8 | 27.8 | 25.3 | 25.3 |
| Total----- | 811.4 | 798.9 | 805.9 | 794.6 | 787.7 |

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

Growers may choose to sell their fruit through a cooperative, through a "participation plan," or in the cash market. Approximately 40 percent of the Florida orange crop is owned by packers or processors, or by growers that are members of a packing or processing cooperative. It is estimated from responses to the Commission's questionnaire that approximately 45 percent of the growers choose to sell their fruit under a "participation plan," and 15 percent of the growers sell their product in the cash market.

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

Under a "participation plan," a nonmember of a cooperative agrees to deliver all his fruit to a cooperative or corporate processor. The grower's return is determined by an agreed-upon formula based on the final selling price of the FCOJ. This type of arrangement provides the grower with the security of a "home" for his fruit, and also allows him the freedom to search for the best deal available each year. Additionally, the cooperative or processor may provide the grower with grove-care services, but does not usually harvest the fruit. ^{1/}

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

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

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

At the present time, it is estimated that the average established grove is 50 acres in size and costs \$8,000 to \$12,000 per acre to purchase. Additionally, it takes approximately 4 years for a new tree to produce fruit and 10 to 12 years for it to reach maturity. Some growers are absentee owners 2/ that contract with a firm to provide care and maintenance services for their grove if such services are not provided by their cooperative or under their participation plan.

Processors.---The number of firms processing FCOJ in Florida, as reported by the Florida Citrus Processors Association, has declined irregularly, as shown in the following tabulation:

| <u>Crop year</u> | <u>Processing firms</u> |
|------------------|-------------------------|
| 1978/79----- | 36 |
| 1979/80----- | 34 |
| 1980/81----- | 35 |
| 1981/82----- | 35 |
| 1982/83----- | <u>1/</u> 31 |

1/ Of the 4 plants which ceased processing FCOJ in 1982/83, 2 firms (* * * and * * *) did so due to the lack of fruit, while * * * went out of business for unspecified reasons and * * * became a repacker only.

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

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

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

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

The majority of the processing plants in Florida are owned by either growers or cooperatives. 1/ In these instances, the processing plants are viewed as extensions, or marketing arms, of the growing operations. Exceptions include * * * and * * *, along with several other smaller processors, which own no groves and are not cooperatives, and thus are concerned with the return on their processing operations only.

U.S. importers

The largest U.S. importers of FCOJ from Brazil include * * *, * * *, * * *, and * * *. With the exception of * * *, which is solely an importer, these firms are also among the largest processors in the United States. * * *. Many U.S. importers have imported FCOJ from Brazil for a long period of time, and the majority of processors in the United States have imported this FCOJ at least once in recent years. 2/ Moreover, some processors have purchased FCOJ from Mexico and other Central American countries as well. In addition to U.S. processors, repackers of FCOJ into single-strength orange juice products and orange drinks have begun to import directly from Brazil in recent years.

Foreign producers

Brazil.—Brazil is one of the world's largest producers of oranges and is the world's leading producer of FCOJ. The Brazilian orange products industry is characterized by an abundance of fresh oranges, an ability to increase orange production, and an efficient processing sector with modern equipment. 3/

Brazil's production of FCOJ increased steadily, from 294 million gallons (single-strength equivalent) in 1976/77 4/ to an estimated 766 million gallons in 1982/83. During the same period, Brazil's exports of FCOJ increased irregularly, from 273 million gallons in 1976/77 to an estimated 627 million gallons in 1982/83, a quantity which is 31 percent below the record export level of 819 million gallons in 1981/82.

According to the USDA, a global export quota was established for the year beginning July 1, 1982. This quota, which is subject to periodic adjustments, is 579 million gallons and excludes shipments during the first part of the year of carryover stock from 1981/82. Export shipments have been allocated to

1/ This pattern of ownership appears to be gradually changing, with a number of major corporations purchasing processing plants within the last several years. These corporations include: Proctor & Gamble, Campbell's Soup, 7-Up, and Quaker Oats. Two other corporations, Coca-Cola and Beatrice Foods, have owned processing plants in Florida for longer periods of time. Additionally, both the Nestle's Group and DiGiorgio have purchased processing plants in California.

2/ While no U.S. processors own facilities in Brazil, Coca-Cola has recently entered into a joint-marketing venture with Cutrale, a Brazilian processor. Transcript of the hearing, pp. 46, 163.

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

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

individual exporters on the basis of recent market shares. Exports to new markets are not part of the quota system, nor are shipments of single-strength juice. It is estimated 1/ that the quota for 1983/84 will be 577 million gallons, plus 28 million gallons of carryover stock from 1982/83.

There are nine firms in Brazil which produce FCOJ. Together, these firms own 15 processing plants, 3 of which did not operate in 1982/83. In addition, three small plants are currently under construction. USDA estimates that four firms account for over * * * percent of FCOJ exports. 2/ The majority of the exports of FCOJ are in 55-gallon drums filled with 52 to 53 gallons of FCOJ. However, bulk transportation in tank ships is becoming increasingly important, with two tank ships currently in service.

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

The Question of Alleged Material Injury

Orange growers, U.S. production and shipments

U.S. production of round oranges increased from 210.6 million boxes 3/ in 1978/79 to 273.6 million boxes in 1979/80, but then declined to 244.6 million boxes in 1980/81 and to 177.8 million boxes in 1981/82. Total production mirrors trends exhibited by the Florida crop, as shown in table 3.

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

Florida production increased from 164.0 million boxes in 1978/79 to 206.7 million boxes in 1979/80, but then declined to 172.4 million boxes in 1980/81 following a freeze. Production decreased further in 1981/82 to 125.8 million boxes, the result of a second freeze. 4/ The 1981/82 crop was the smallest since 1967/68. Production is forecast to recover to 142.2 million boxes in 1982/83, due to the favorable growing conditions during that year.

1/ USDA attache report No. BR 3023.

2/ These firms are Sucocitrico Cutrale S.A. (Cutrale), Cargill Industrial Ltda. (Cargill), Citrosuco Paulista S.A. (Citrosuco), and Frutesp.

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

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

Table 3.--U.S. production of round oranges, 1/ by States and by crop years, 1978/79 to 1982/83

| (In millions of boxes) <u>2/</u> | | | | | |
|----------------------------------|-------------------|------------|-----------|-----------|-----------|
| Crop year | Florida <u>3/</u> | California | Arizona | Texas | Total |
| Production | | | | | |
| 1978/79----- | 164.0 | 37.3 | 2.9 | 6.4 | 210.6 |
| 1979/80----- | 206.7 | 59.4 | 3.5 | 4.0 | 273.6 |
| 1980/81----- | 172.4 | 65.3 | 2.6 | 4.3 | 244.6 |
| 1981/82----- | 125.8 | 43.0 | 3.1 | 5.9 | 177.8 |
| 1982/83----- | <u>4/</u> 142.2 | <u>5/</u> | <u>5/</u> | <u>5/</u> | <u>5/</u> |
| Processed <u>6/</u> | | | | | |
| 1978/79----- | 152.3 | 12.5 | 1.3 | 4.3 | 170.4 |
| 1979/80----- | 195.7 | 19.2 | 1.3 | 2.0 | 218.2 |
| 1980/81----- | 164.1 | 27.6 | .9 | 1.5 | 194.1 |
| 1981/82----- | 118.2 | 9.4 | .9 | 2.6 | 131.1 |
| 1982/83----- | <u>4/</u> 134.0 | <u>5/</u> | <u>5/</u> | <u>5/</u> | <u>5/</u> |

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

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

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

4/ Estimated by the Florida Crop & Livestock Reporting Service.

5/ Not available.

6/ Processed into all juice and other citrus products.

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

Orange processors

U.S. production.--U.S. production of FCOJ from fresh Florida oranges 1/ increased from 758.2 million gallons (single-strength equivalent) in 1978/79 to 1.0 billion gallons in 1979/80, but then declined to 733.1 million gallons in 1980/81, a freeze year (table 4). Production fell further in 1981/82, to 533.2 million gallons, as a result of the continuing decline in domestic orange production. However, production of FCOJ is forecast to increase to 707.0 million gallons in 1982/83. Normally, production of FCOJ from domestic oranges would be expected to increase gradually following a freeze, over a three to five year period. The recovery in 1982/83 exceeds that expectation because of the near-ideal growing conditions that existed during that period.

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

Table 4.--FCOJ: U.S. production from Florida orange crop,
1978/79 to 1982/83

| Crop year | : | Production of FCOJ from Florida orange crop Million gallons 1/ |
|--------------|---|--|
| 1978/79----- | : | 758.2 |
| 1979/80----- | : | 1,012.9 |
| 1980/81----- | : | 733.1 |
| 1981/82----- | : | 533.2 |
| 1982/83----- | : | 2/ 707.0 |

1/ Single-strength equivalent.

2/ Estimated by the staff of the U.S. International Trade Commission from data provided by the Florida Crop & Livestock Reporting Service.

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

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

Table 5.--FCOJ: U.S. capacity to extract juice and U.S. capacity to evaporate water, as of January 1979-83

| Year | : | Juice-extracting capacity | : | Water-evaporating capacity |
|-----------|---|-----------------------------------|---|-------------------------------|
| | : | -----Million pounds per hour----- | | |
| 1979----- | : | 6.4 | : | 2.9 |
| 1980----- | : | 6.5 | : | 3.0 |
| 1981----- | : | 6.7 | : | 3.2 |
| 1982----- | : | 6.8 | : | 3.4 |
| 1983----- | : | 7.0 | : | 3.5 |

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

The hourly juice-extracting capacity of 28 U.S. processors that accounted for over 90 percent of fresh oranges purchased for production into FCOJ in 1981/82 increased steadily from 6.4 million pounds in 1979 to 7.0 million pounds in 1983. Water-evaporating capacity of these producers also increased throughout the period, rising from 2.9 million pounds per hour in 1979 to 3.5 million pounds per hour in 1983. 1/

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

Domestic shipments.--Shipments of FCOJ to the domestic market accounted for about 89 percent of total shipments (domestic, export, and futures deliveries) during 1978/79 through 1981/82. As shown in the following tabulation compiled from Florida Citrus Processors Association data, domestic shipments of FCOJ fluctuated, but increased slightly during that period:

| <u>Crop year</u> | <u>Domestic shipments <u>1/</u></u> <u>(1,000 gallons) <u>2/</u></u> |
|------------------|---|
| 1978/79----- | 836,903 |
| 1979/80----- | 956,789 |
| 1980/81----- | 883,610 |
| 1981/82----- | 838,807 |

1/ Excludes product delivered in fulfillment of futures contracts.

2/ Single-strength equivalent.

Domestic shipments increased by 14 percent from 1978/79 to 1979/80, primarily due to the increase in available FCOJ in that year and the lowering of prices. These shipments fell in each of the succeeding two years, as declining production resulting from the back-to-back freezes in 1980/81 and 1981/82 was not fully offset by increased imports. Futures deliveries accounted for approximately 5 percent of total shipments during 1978/79 through 1981/82. These deliveries totaled 55 million gallons 2/ in 1978/79, 26 million gallons in 1979/80, 59 million gallons in 1980/81, and 30 million gallons in 1981/82.

U.S. exports.--As mentioned in the section of this report on U.S. tariff treatment, the import duty on FCOJ is substantial (43.3 percent ad valorem equivalent in 1982). This provides importers/processors with a strong incentive to export FCOJ and take advantage of the drawback provisions of section 22.41 of Customs regulations. As drawback can be collected on exports of either imported or domestically produced FCOJ, and because the great majority of FCOJ produced by importer/processors is blended (i.e., part domestic and part imported), it is not possible to determine what portion of exported FCOJ consists of the imported product.

1/ As noted on p. A-10, the total number of processors in Florida declined from 36 in 1978/79 to 31 in 1982/83. Capacity data for the closed processors are not available.

2/ Single-strength equivalent.

The United States exports FCOJ to over 70 countries located in all areas of the world. Such exports increased from 43 million gallons (single-strength equivalent) in 1978/79 to 63 million gallons in 1979/80 and to 76 million gallons in 1980/81, or by 78 percent over the period. However, this trend reversed in 1981/82, when exports declined to 62 million gallons, or by 17 percent from the 1980/81 level. Over the period 1978/79 through 1981/82, however, exports increased by 47 percent (table 6).

Table 6.--FCOJ: U.S. exports, by principal markets, crop years 1978/79 through 1981/82

| Market | 1978/79 | 1979/80 | 1980/81 | 1981/82 |
|--|---------|---------|---------|---------|
| Quantity (1,000 gallons) ^{1/} | | | | |
| Canada----- | 27,872 | 32,456 | 35,114 | 29,004 |
| Netherlands----- | 2,406 | 4,542 | 9,101 | 5,570 |
| West Germany----- | 1,690 | 4,748 | 5,499 | 4,374 |
| Sweden----- | 3,331 | 4,084 | 3,272 | 2,664 |
| Republic of Korea----- | 527 | 1,528 | 1,841 | 2,413 |
| Other----- | 6,729 | 15,274 | 20,858 | 18,449 |
| Total----- | 42,555 | 62,632 | 75,685 | 62,474 |
| Value (1,000 dollars) | | | | |
| Canada----- | 49,764 | 56,542 | 61,355 | 60,716 |
| Netherlands----- | 5,226 | 5,743 | 8,301 | 5,270 |
| West Germany----- | 3,811 | 5,437 | 6,426 | 4,724 |
| Sweden----- | 4,218 | 4,850 | 4,268 | 3,503 |
| Republic of Korea----- | 971 | 2,092 | 1,841 | 2,545 |
| Other----- | 16,556 | 21,387 | 28,822 | 25,731 |
| Total----- | 80,546 | 96,051 | 111,013 | 102,489 |
| Unit value (per gallon) | | | | |
| Canada----- | \$1.79 | \$1.74 | \$1.75 | \$2.09 |
| Netherlands----- | 2.17 | 1.26 | .91 | .95 |
| West Germany----- | 2.26 | 1.15 | 1.17 | 1.08 |
| Sweden----- | 1.27 | 1.19 | 1.30 | 1.31 |
| Republic of Korea----- | 1.84 | 1.37 | 1.00 | 1.05 |
| Other----- | 2.46 | 1.40 | 1.38 | 1.39 |
| Average----- | 1.89 | 1.53 | 1.47 | 1.64 |

^{1/} Single-strength equivalent.

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

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

The average unit value of U.S. exports followed an opposite trend from that of quantity, continually declining from \$1.89 in 1978/79 to \$1.47 in 1980/81, or by 22 percent. The average unit value then increased to \$1.64 in 1981/82, or by 12 percent over that in 1980/81.

As shown in the following tabulation, U.S. exports of FCOJ increased slightly from December 1981-April 1982 to December 1982-April 1983:

| <u>Period</u> | <u>Quantity</u> (1,000 gallons) | <u>Value</u> (1,000 dollars) | <u>Unit value</u> per gallon |
|-------------------------------|------------------------------------|---------------------------------|---------------------------------|
| December 1981-April 1982----- | 22,414 | 36,166 | \$1.61 |
| December 1982-April 1983----- | 22,664 | 32,029 | 1.41 |

Financial experience of U.S. producers--FCOJ operations.--Usable financial data were received from 18 U.S. producers (12 corporations and 6 cooperatives) 1/ on their FCOJ operations (table 7). These producers accounted for an estimated 69 percent of total U.S. shipments of FCOJ 2/ in 1981/82. Because the accounting methods of corporations and cooperatives differ significantly, the data for these two types of organizations are presented separately in the table. Three of the twelve corporations' operations on FCOJ represented over 90 percent of their firms' overall operations in 1982. Hence, the overall operations of these firms, which include sales of by-products such as citrus feed, are presented.

Aggregate net sales of the twelve corporations increased from \$466.5 million in 1980 to \$553.9 million in 1981 and then declined to \$552.4 million in 1982. Aggregate net sales of the six cooperatives increased from * * * million in 1979 to * * * million in 1981, or by * * * percent, and then declined to * * * million in 1982, or by * * * percent from the 1981 level. Combined total net sales of the corporations and cooperatives increased from * * * million in 1980 to * * * billion in 1981, or by * * * percent, but then declined slightly to * * * billion in 1982. The operating profit of the corporations on their FCOJ operations increased from \$38.4 million in 1980 to \$50.0 million in 1981, while the ratio of operating profit to net sales increased from 8.2 percent to 9.0 percent during the same period. The operating profit then declined by 28 percent to \$35.8 million, or 6.5 percent of net sales, in 1982.

1/ One cooperative, * * *, is the single marketing agent for * * *. * * * schedules the production of its members, markets all the output of these plants, and imports FCOJ. For purposes of this section, * * * is treated as one cooperative, and its data include the aggregate data of its members.

2/ Includes production from U.S. round oranges, blends of domestic and imported FCOJ, and imports.

Table 7.--Selected financial data of 18 U.S. producers on their FCOJ operations, accounting years 1979-82

| Item | 1979 | 1980 | 1981 | 1982 |
|--|---------|---------|---------|-------|
| Operations of 12 U.S. corporations ^{1/} | | | | |
| Net sales-----1,000 dollars--: | 453,719 | 466,514 | 553,892 | 552,3 |
| Cost of goods sold-----do--: | 383,383 | 374,485 | 449,252 | 453,6 |
| Gross profit-----do--: | 70,336 | 92,029 | 104,640 | 98,7 |
| General, selling, and adminis-: | | | | |
| trative expenses-----do--: | 37,508 | 53,642 | 54,672 | 62,9 |
| Operating profit-----do--: | 32,828 | 38,387 | 49,968 | 35,7 |
| Interest expense ^{2/} -----do--: | 4,721 | 6,045 | 13,027 | 12,3 |
| Other income (expense) ^{2/} -----do--: | (1,526) | (1,741) | 1,965 | 1,4 |
| Net profit before income taxes: | | | | |
| do-----: | 26,581 | 30,601 | 38,906 | 24,8 |
| Ratio of operating profit to: | | | | |
| net sales-----percent--: | 7.2 | 8.2 | 9.0 | 6 |
| Ratio of net profit before: | | | | |
| income taxes to net sales: | | | | |
| percent--: | 5.9 | 6.6 | 7.0 | 4 |
| Number of firms reporting: | | | | |
| operating losses-----: | 2 | 1 | 1 | |
| Number of firms reporting: | | | | |
| net losses-----: | 2 | 5 | 4 | |
| Operations of 6 U.S. cooperatives | | | | |
| Net sales-----1,000 dollars--: | *** | *** | *** | * |
| Costs and expenses-----do--: | *** | *** | *** | * |
| Net proceeds resulting from: | | | | |
| member and nonmember: | | | | |
| sales before income: | | | | |
| taxes-----do--: | *** | *** | *** | * |
| Net profit or (loss) from non-: | | | | |
| member business before in-: | | | | |
| come taxes-----do--: | *** | *** | *** | * |
| Ratio of net proceeds re-: | | | | |
| sulting from member and: | | | | |
| nonmember sales before: | | | | |
| income taxes to net sales: | | | | |
| percent--: | *** | *** | *** | * |

^{1/} * * *, acquired a citrus concentrate plant in November 1979. Hence, data are for 11 firms in 1979. * * *.

^{2/} * * * did not provide interest expense separately. Instead, it included interest expense in the other income (expense) item.

Source: Compiled from data submitted in response to questionnaires of th

*** did not provide interest expense separately as requested in the Commission's questionnaire, but instead included interest expense in the other income (expense) item. Therefore, data for *** were not included in the following reported interest expense figures, nor were they used in calculating the following ratios of interest expense to total net sales. Reported interest expenses nearly tripled from \$4.7 million (1.8 percent of total net sales) in 1979 to \$13.0 million (4.1 percent of total net sales) in 1981, and then dropped to \$12.4 million (4.2 percent of total net sales) in 1982. Two firms, *** and ***, reported significantly increasing interest expenses. After taking into consideration interest expense and other income or expense, net profit before income taxes followed a similar trend as did the operating profit, increasing from \$26.6 million, or 5.9 percent of net sales, in 1979, to \$38.9 million, or 7.0 percent of net sales, in 1981, and then declining to \$24.8 million, or 4.5 percent of net sales, in 1982.

***'s net sales accounted for over *** percent of the 12 corporations' aggregate net sales during 1979-81, and represented *** percent of the aggregate amount in 1982. Additionally, *** reported higher than average operating profit margins of *** percent in 1979, *** percent in 1980, *** percent in 1981, and *** percent in 1982. ^{1/} When ***'s financial data are excluded from the aggregate data, ***. The operating profit trends for the other periods are ***, as shown in the following tabulation (in percent):

| Accounting year | Including *** | | Excluding *** | |
|-----------------|-------------------------|--------------|-------------------------|--------------|
| | As a share of net sales | | As a share of net sales | |
| | Operating profit | Gross profit | Operating profit | Gross profit |
| 1979----- | *** | *** | *** | *** |
| 1980----- | *** | *** | *** | *** |
| 1981----- | *** | *** | *** | *** |
| 1982----- | *** | *** | *** | *** |

***, which accounted for about *** percent of total FCOJ shipments ^{2/} in 1981/82, was unable to provide specific data on its FCOJ operations and therefore its operations are not included in the tables. However, *** did provide an income statement for all products produced in its plant. FCOJ sales accounted for less than *** percent of such sales, the major portion of which consisted of ***. Selected financial data for ***'s establishment operations are presented in the following tabulation:

^{1/} In an interview with David Coombs of the Commission's staff, ***. See memorandum of telephone conversation of June 9, 1983.

^{2/} ***'s largest volume product is ***, which is produced for consumption at ***. Therefore, any FCOJ produced for reconversion to *** is not included in this figure.

| Item | Fiscal year ended-- | | | |
|--------------------------------|---------------------|------|------|------|
| | *** | *** | *** | *** |
| | 1979 | 1980 | 1981 | 1982 |
| Net sales-----1,000-dollars--: | *** | *** | *** | *** |
| Operating profit-----do-----: | *** | *** | *** | *** |
| Ratio of operating profit to | | | | |
| net sales-----percent--: | *** | *** | *** | *** |

The number of corporations reporting operating losses increased from one each in 1980 and 1981 to four in 1982. In the latter year, 5 of the 12 corporations sustained net losses.

Aggregate net proceeds of the six U.S. cooperatives on their FCOJ operations increased from * * * million in 1979 to * * * million in 1981, and then declined to * * million in 1982. Although the ratio of net proceeds to net sales increased irregularly from * * * percent in 1979 to * * * percent in 1981, this ratio dropped to * * * percent in 1982. During 1979-82, the trend in net proceeds margins for cooperatives was similar to the operating profit margins reported by corporations with the exception of * * *. The variance in that year may be attributed to the impact of data provided by one corporation, * * *, as mentioned previously. Pretax net profit from nonmember business increased from a loss of * * * million in 1979 to a profit of * * * million in 1981, but then declined to * * * in 1982.

Financial experience of U.S. producers--overall operations of establishments.--Selected financial data for the overall operations of establishments within which FCOJ is produced are presented in table 8. The overall establishment operations of the corporations followed similar trends in net sales, operating profit, and pretax net profit as did their operations on FCOJ discussed earlier. The overall establishment operations of the cooperatives also generally followed the same trends in net sales, net proceeds, and net proceeds margins as did their operations on FCOJ. Net profit from nonmember business increased from * * * million in 1979 to * * * million in 1980 and * * * million in 1982 after declining to * * * million in 1981.

Research and development expenses.--Only 6 of the 18 U.S. producers of FCOJ that responded to the profit-and-loss section of the Commission's questionnaire reported research and development expenses. Their expenditures are shown in the following tabulation:

Research and development
expenses
(1,000 dollars)

| | |
|-----------|-------|
| 1979----- | 896 |
| 1980----- | 1,846 |
| 1981----- | 2,856 |
| 1982----- | 4,661 |

Table 8.--Selected financial data of 18 U.S. producers on the overall operations of establishments within which FCOJ is produced, accounting years 1979-82

| Item | 1979 | 1980 | 1981 | 1982 |
|--|---------|---------|-----------|-----------|
| Operations of 12 U.S. corporations <u>1/</u> | | | | |
| Net sales-----1,000 dollars-- | 778,836 | 900,869 | 1,038,473 | 1,013,605 |
| Cost of goods sold-----do----- | 603,287 | 661,542 | 771,196 | 755,234 |
| Gross profit-----do----- | 175,549 | 239,327 | 267,277 | 258,371 |
| General, selling, and administrative expenses-----do----- | 96,085 | 147,556 | 156,270 | 171,184 |
| Operating profit-----do----- | 79,464 | 91,771 | 111,007 | 87,187 |
| Interest expense <u>2/</u> -----do----- | 6,574 | 7,930 | 14,884 | 13,240 |
| Other income (expense) <u>2/</u> -----do----- | 4,410 | (3,203) | (2,289) | (714) |
| Net profit before income taxes do----- | 77,300 | 80,638 | 93,834 | 73,233 |
| Ratio of operating profit to net sales-----percent-- | 10.2 | 10.2 | 10.7 | 8.6 |
| Ratio of net profit before income taxes to net sales percent-- | 9.9 | 9.0 | 9.0 | 7.2 |
| Number of firms reporting operating losses----- | 2 | 0 | 0 | 3 |
| Number of firms reporting net losses----- | 2 | 4 | 5 | 5 |
| Operations of 6 U.S. cooperatives | | | | |
| Net sales----1,000 dollars----- | *** | *** | *** | *** |
| Costs and expenses-----do----- | *** | *** | *** | *** |
| Net proceeds resulting from member and nonmember sales before income taxes-----do----- | *** | *** | *** | *** |
| Net profit from nonmember business before income taxes do----- | *** | *** | *** | *** |
| Ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales percent-- | *** | *** | *** | *** |

1/ * * * acquired a citrus concentrate plant in November 1979. Hence, data are for 11 firms in 1979. * * *

2/ * * * did not provide interest expense separately. Instead, it included interest expense in the other income (expense) item.

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

The majority of the reported research and development expenses were reported by one cooperative, * * *. * * * incurred * * * million of such expenses in 1982. Research and development expenses increased from \$896,000 in 1979 to \$4.7 million in 1982. Further research and development is performed by State agencies and grower associations on behalf of Florida citrus growers and processors.

Unit costs of production.---Domestic producers of FCOJ were requested to provide data on their unit costs of production for FCOJ. The cooperatives were not able to provide complete unit-cost data because their raw material (fresh oranges) is not supplied at market price. Thirteen corporations provided data on total unit costs of production. Although incomplete responses do not allow a detailed analysis of each firm's costs by item, the average industry costs for crop years 1978/79 through 1981/82 are presented in the following tabulation:

Average unit costs of production
(per gallon) 1/

| <u>Crop year</u> | |
|------------------|--------|
| 1978/79 2/ | \$8.07 |
| 1979/80 | 7.19 |
| 1980/81 | 8.71 |
| 1981/82 | 9.43 |

1/ At 65° Brix.

2/ Data for 11 processors only.

As shown in the above tabulation, the industry's average cost of producing FCOJ from round oranges declined from \$8.07 per gallon in 1978/79 to \$7.19 in 1979/80, or by 11 percent, but then increased to \$8.71 and \$9.43 in 1980/81 and 1981/82, respectively. The 1981/82 cost represents a 17-percent increase over the 1978/79 level. Almost all of the producers attribute the increases in the last two periods to the low volume of fresh oranges available for processing.

Investment in productive facilities.---Eleven U.S. corporations provided data relative to both their investment in productive facilities employed in the production of FCOJ (table 9), and all products produced in their establishment(s) (table 10).

The corporations' investment in FCOJ facilities, valued at original cost, increased from \$75.7 million in 1979 to \$120.6 million in 1982. The book value of such facilities increased by \$36.9 million during the same period.

To provide an additional measure of profitability, the ratios of net profit or loss before income taxes to original cost and book value of assets are also presented in the tables. These ratios for both FCOJ operations and establishment operations followed the same trend as did ratios of profit or loss before income taxes to net sales.

Table 9.--Investment in productive facilities, net sales, and profit of 11 U.S. corporations for their operations producing FCOJ, as of the end of accounting years 1979-82

| Item | 1979 | 1980 | 1981 | 1982 |
|---|---------|---------|---------|---------|
| Investment in productive facilities: | | | | |
| Original cost-----1,000 dollars-- | 75,684 | 86,059 | 106,998 | 120,569 |
| Book value-----do----- | 38,493 | 50,759 | 64,972 | 75,345 |
| Net sales-----do----- | 255,606 | 257,690 | 321,084 | 294,843 |
| Operating profit-----do----- | 13,319 | 11,504 | 18,718 | 159 |
| Net profit or (loss) before income taxes-----do----- | 8,730 | 5,353 | 10,025 | (9,123) |
| Ratio of operating profit to net sales-----percent----- | 5.2 | 4.5 | 5.8 | 0.05 |
| Ratio of net profit or (loss) before income taxes to-- | | | | |
| Net sales-----percent----- | 3.4 | 2.1 | 3.1 | (3.1) |
| Original cost-----do----- | 11.5 | 6.2 | 9.4 | (7.6) |
| Book value-----do----- | 22.7 | 10.5 | 15.4 | (12.1) |

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

Table 10.--Investment in productive facilities, net sales, and profit of 11 U.S. corporations for their overall operations of establishments within which FCOJ is produced, as of the end of accounting years 1979-82

| Item | 1979 | 1980 | 1981 | 1982 |
|---|---------|---------|---------|---------|
| Investment in productive facilities: | | | | |
| Original cost-----1,000 dollars-- | 111,949 | 134,483 | 152,867 | 177,200 |
| Book value-----do----- | 62,471 | 86,420 | 94,457 | 113,667 |
| Net sales-----do----- | 321,619 | 334,816 | 394,667 | 347,315 |
| Operating profit-----do----- | 26,276 | 23,145 | 28,321 | 2,628 |
| Net profit or (loss) before income taxes-----do----- | 28,063 | 15,747 | 17,694 | (7,138) |
| Ratio of operating profit to net sales-----percent----- | 8.2 | 6.9 | 7.2 | 0.8 |
| Ratio of net profit or (loss) before income taxes to-- | | | | |
| Net sales-----percent----- | 8.7 | 4.7 | 4.5 | (2.1) |
| Original cost-----do----- | 25.1 | 11.7 | 11.6 | (4.0) |
| Book value-----do----- | 44.9 | 18.2 | 18.7 | (6.3) |

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

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

U.S. imports

U.S. imports of FCOJ 1/ from Brazil declined from 164 million gallons in crop year 1978/79 to 100 million gallons in crop year 1979/80, but then rose to 198 million gallons in crop year 1980/81 and to 352 million gallons in crop year 1981/82, for an overall increase of 115 percent over the period under investigation (table 11).

Table 11.--FCOJ: U.S. imports for consumption, by principal
sources, crop years 1978/79 to 1981/82

| Source | 1978/79 | 1979/80 | 1980/81 | 1981/82 |
|------------------------------------|---------|---------|---------|---------|
| Quantity (1,000 gallons) <u>1/</u> | | | | |
| Brazil----- | 163,890 | 100,122 | 197,876 | 352,239 |
| Mexico----- | 7,919 | 2,387 | 6,524 | 17,621 |
| Belize----- | 0 | 0 | 2,475 | 2,189 |
| Argentina----- | 661 | 0 | 1,514 | 735 |
| Canada----- | 37 | 0 | 15 | 535 |
| Other----- | 305 | 193 | 12 | 830 |
| Total----- | 172,812 | 102,702 | 208,416 | 374,149 |
| Value (1,000 dollars) | | | | |
| Brazil----- | 111,010 | 66,791 | 162,084 | 282,439 |
| Mexico----- | 6,493 | 1,726 | 5,364 | 15,164 |
| Belize----- | - | - | 2,162 | 1,962 |
| Argentina----- | 456 | - | 1,268 | 452 |
| Canada----- | 31 | - | 25 | 593 |
| Other----- | 252 | 360 | 30 | 1,495 |
| Total----- | 118,242 | 68,877 | 170,933 | 302,105 |
| Unit value (per gallon) | | | | |
| Brazil----- | \$0.68 | \$0.67 | \$0.82 | \$0.80 |
| Mexico----- | .82 | .72 | .82 | .86 |
| Belize----- | - | - | .87 | .90 |
| Argentina----- | .69 | - | .84 | .61 |
| Canada----- | .84 | - | 1.67 | 1.11 |
| Other----- | .83 | 1.87 | 2.50 | 1.80 |
| Average----- | .68 | .67 | .82 | .81 |

1/ Single-strength equivalent.

Source: Compiled from official statistics of the U.S. Department of Commerce. A-24

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

Total imports mirrored the same general trend exhibited by imports from Brazil, 1/ declining from 173 million gallons in crop year 1978/79 to 103 million gallons in crop year 1979/80, and then rising to 208 million gallons in crop year 1980/81 and 374 million gallons in crop year 1981/82, representing an overall increase of 117 percent over the period under investigation.

As shown in the following tabulation, both imports from Brazil and total imports increased from December 1981-April 1982 to December 1982-April 1983:

| Item | December-April-- | |
|--------------------------|----------------------------|---------|
| | 1981/82 | 1982/83 |
| | -----1,000 gallons 1/----- | |
| Imports from Brazil----- | 129,793 | 139,706 |
| Total imports----- | 134,689 | 149,756 |

1/ Single-strength equivalent.

The petitioner has noted a trend toward the importation of FCOJ into States outside of Florida for conversion into reconstituted juice. 2/ The portion of imports of FCOJ which were entered through Florida during the period covered by this investigation are presented in the following tabulation, compiled from Department of Commerce data (in percent):

| Period | Imports of FCOJ from Brazil entered through Florida ports | Imports of FCOJ from other sources entered through Florida ports | Total imports of FCOJ entered through Florida ports |
|----------------|--|--|--|
| | | | |
| 1979----- | 80 | 35 | 77 |
| 1980----- | 75 | 22 | 74 |
| 1981----- | 80 | 86 | 81 |
| 1982----- | 81 | 81 | 81 |
| January-March: | | | |
| 1982----- | 86 | 78 | 86 |
| 1983----- | 63 | 48 | 62 |

As shown in the tabulation above, the vast majority of both imports from Brazil and total imports were entered through Florida ports during 1979 through 1982. However, the share of imports from Brazil which entered through Florida ports then declined sharply, from 86 percent in January-March 1982 to 63 percent in January-March 1983. The portion of total imports of FCOJ which

1/ Brazilian imports accounted for between 94.1 (1981/82) and 97.5 percent (1979/80) of total imports during the period under investigation.

2/ See "An Appraisal of Recent Domestic and International Trade Developments in Orange Juice; Implications for U.S. Growers and Processors," pp. A-13-15, Inv. No. 701-TA-184 (Preliminary).

entered through Florida ports followed the trend exhibited by imports from Brazil during this most recent period. The majority of imports which entered through non-Florida ports are believed to be destined for repackers of FCOJ.

Market penetration

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

The ratio of imports from Brazil to total available FCOJ decreased from 15.4 percent in 1978/79 to 7.8 percent in 1979/80, and then rose to 16.7 percent in 1980/81 and 29.7 percent in 1981/82 (table 12). Over the period, the penetration level was highest in the worst domestic crop year (1981/82) and lowest in the best crop year (1979/80). This trend is illustrated in table 13, which compares imports from Brazil with production from the Florida crop.

Table 12.--FCOJ: U.S. imports from Brazil and total available FCOJ, crop years 1978/79 to 1981/82

| Period | Imports from Brazil | Total available FCOJ | Ratio of im ports from Brazi l to total ava ailable FCOJ |
|--------------|--|-------------------------|---|
| | ----- <u>Million gallons</u> <u>1/</u> ----- | | ---- <u>Percent</u> ---- |
| 1978/79----- | 163.9 | 1,066.4 | |
| 1979/80----- | 100.1 | 1,279.4 | |
| 1980/81----- | 197.9 | 1,181.8 | |
| 1981/82----- | 352.2 | 1,185.9 | |

1/ Single-strength equivalent.

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

Table 13.--FCOJ: U.S. imports from Brazil and production from Florida crop, crop years 1978/79 to 1981/82

| Crop year | Imports from Brazil | Production from Florida crop | Ratio of imports from Brazil to production from Florida crop |
|--------------|--|---------------------------------|---|
| | ----- <u>Million gallons</u> <u>1/</u> ----- | | ----- <u>Percent</u> ----- |
| 1978/79----- | 163.9 | 758.2 | 21.6 |
| 1979/80----- | 100.1 | 1,012.9 | 9.9 |
| 1980/81----- | 197.9 | 733.1 | 27.0 |
| 1981/82----- | 352.2 | 533.2 | 66.1 |

1/ Single-strength equivalent.

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

Prices

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

| <u>Period</u> | <u>From Brazil</u> | <u>From U.S. sources</u> |
|---------------|--------------------|--------------------------|
| 1978/79----- | \$0.59 | \$0.73 |
| 1979/80----- | .55 | .64 |
| 1980/81----- | .65 | .85 |
| 1981/82----- | .71 | .93 |

As shown, both value series follow the same trend, and the value of the product from Brazil was consistently below that purchased from U.S. sources. However, the percentage difference in value between the Brazilian and the U.S. products has increased irregularly from 19 percent in 1978/79 to 24 percent in 1981/82.

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

Average prices received by growers on cash sales of oranges to processors for use in FCOJ for the past 21 seasons are presented in table 14. The transactions on which these prices are based have typically accounted for about 15 percent of the total shipments from growers to processors in recent years. As shown in the table, average prices during the second half of the marketing season have usually been higher than the average during the first half due to the fact that the quality of the fruit improves as the season progresses. 1/

Although it is evident that prices have risen significantly from an average of \$2.25 per box in the 1961/62 season to an average of \$6.49 per box in the 1981/82 season, these prices have often fluctuated sharply from year to year, as a result of short-run demand and supply influences. Prices of oranges have usually increased during seasons in which freezes have caused damage to the orange crop, and they have usually increased much more significantly in the following season. As shown in table 14, freezes occurred during the 1962/63 season, the 1970/71 season, the 1976/77 season, and in 1980/81 and 1981/82. Prices during 1962/63 rose to \$2.71 per box, representing a 20-percent increase from the \$2.25 per box in the previous year. In the following year, the price nearly doubled, reaching an average of \$5.25 per box. Similarly, the price increase during crop year 1971/72 was larger than the increase in 1970/71 when the freeze occurred. During the 1976/77 crop year, prices actually declined from the average level in the previous year, despite the freeze. However, during the next season, they climbed by over 100 percent to \$5.42 per box. During 1980/81, the average price rose by 8 percent, and then increased by an additional 17 percent in the following year. During December 1982 to June 11, 1983, the average price was \$6.94 per box. This amount compares with an average price of \$6.49 per box in the 1981/82 season.

Despite the impact of freezes, the overall increase in the average price of fresh oranges during the past five seasons was small. After reaching an all-time high (at that time) of \$6.42 per box in 1978/79, prices fell sharply to \$5.16 in the following year and then recovered during the next 2 years, reaching \$6.49 in 1981/82--an amount that was only 7 cents higher than the 1978/79 average. Preliminary data for 1982/83 indicate a price of \$6.94, representing an amount 8 percent greater than the 1978/79 average.

Unit value data on cash payments by processors for purchases of fresh oranges are presented in table 15, along with unit values of payments under participation and cooperative arrangements and assigned values of company-owned oranges. Trends in unit values of cash payments during 1978/79 to 1981/82 are similar to those for the price data presented in table 14. They show that payments per box declined sharply during the 1979/80 season and then increased during the next 2 years. Unit values of payments under participation plans are lower than those for cash payments because growers have a secure market for their fruit (pp. A-8 to A-10). Payments per box under participation plans increased irregularly from \$4.66 per box during 1978/79 to \$5.05 per box in 1981/82. Payments to cooperative members, which

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1/ The quality of the fruit improves during the second half of the season because the majority of the fruit harvested during that period is of the Valencia variety, the best variety for juice.

Table 14.—Fresh oranges: Average spot and contract prices received by growers, by crop years, 1/ 1961/62 to 1982/83

| (Per 90-pound box) | | | | |
|-------------------------|---|--|--|--|
| Crop year | Average price: in first half: of season | Average price: in second half: of season | Average price: for entire season | |
| 1961/62----- | \$2.54 : | \$1.91 : | \$2.25 | |
| 1962/63 <u>2/</u> ----- | 1.61 : | 3.81 : | 2.71 | |
| 1963/64----- | 5.16 : | 5.32 : | 5.25 | |
| 1964/65----- | 3.46 : | 3.24 : | 3.37 | |
| 1965/66----- | 1.92 : | 2.58 : | 2.28 | |
| 1966/67----- | 1.17 : | 1.46 : | 1.29 | |
| 1967/68----- | 2.55 : | 2.98 : | 2.76 | |
| 1968/69----- | 2.56 : | 2.92 : | 2.70 | |
| 1969/70----- | 1.90 : | 1.99 : | 1.94 | |
| 1970/71 <u>2/</u> ----- | 1.52 : | 3.02 : | 2.07 | |
| 1971/72----- | 2.87 : | 2.95 : | 2.91 | |
| 1972/73----- | 2.27 : | 2.50 : | 2.36 | |
| 1973/74----- | 2.49 : | 2.71 : | 2.58 | |
| 1974/75----- | 2.27 : | 2.74 : | 2.41 | |
| 1975/76----- | 2.91 : | 3.44 : | 3.11 | |
| 1976/77 <u>2/</u> ----- | 1.88 : | 3.41 : | 2.59 | |
| 1977/78----- | 5.06 : | 5.88 : | 5.42 | |
| 1978/79----- | 6.26 : | 6.66 : | 6.42 | |
| 1979/80----- | 4.97 : | 5.43 : | 5.16 | |
| 1980/81 <u>2/</u> ----- | 4.30 : | 7.23 : | 5.55 | |
| 1981/82 <u>2/</u> ----- | 6.27 : | 6.90 : | 6.49 | |
| 1982/83----- | <u>3/</u> 6.68 : | <u>3/</u> <u>4/</u> 7.29 : | <u>3/</u> <u>5/</u> 6.94 | |

1/ A crop year denotes the period from December of a given year through November of the following year, although all fresh oranges are harvested by July.

2/ Season in which a freeze occurred.

3/ Preliminary data.

4/ Data for Mar. 6 to June 11, 1983.

5/ December 1982-June 11, 1983.

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

Table 15.--Fresh oranges: Average unit values of purchases by processors under cooperative, participation, and cash arrangements and assigned values of company-owned fruit, by crop years, 1978/79 to 1981/82

| (Per 90-pound box) | | | | | |
|--------------------|---------|---------|---------|---------|-------|
| Type of fruit | 1978/79 | 1979/80 | 1980/81 | 1981/82 | |
| Cooperative----- | \$3.76 | \$3.22 | \$3.88 | | \$3.4 |
| Participation----- | 4.66 | 4.74 | 4.59 | | 5.0 |
| Cash----- | 6.02 | 5.15 | 5.59 | | 6.5 |
| Company owned----- | 2.64 | 2.66 | 2.96 | | 1.6 |

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

reflect deductions for picking and hauling, fluctuated irregularly with no apparent trend during this period. Unit values of these outlays declined from \$3.76 per box in 1978/79 to \$3.22 per box in 1979/80, increased to \$3.88 in 1980/81, and then fell back to \$3.41 in 1981/82. Assigned values of company-owned fruit increased moderately from \$2.64 in 1978/79 to \$2.96 in 1980/81, and then declined to \$1.67 in 1981/82.

Average f.o.b. reference prices ^{1/} quoted by private-label processors for sales of 12 6-ounce cans of FCOJ are presented in table 16. Although these price data provide a good indicator of year-to-year movements in prices, they do not represent actual transaction prices for FCOJ.

According to * * * of * * *, one of the largest private-label processors in the country, both standard discounts and special discounts resulting from temporary promotions have always been common. ^{2/} * * * stated that transaction prices during early 1981 were typically running at about \$3.60 per dozen 6-ounce cans instead of the \$3.91 reference price shown in the table. He stated that during May and June of 1983 FCOJ sold at about \$3.70 per dozen 6-ounce cans, an amount which is significantly lower than the \$3.95 reference price. * * * also said that transaction prices are generally lower now than they were a year ago.

As shown in table 16, FCOJ reference prices have usually moved in the same direction as prices of fresh oranges during the past two decades, though the magnitudes of the fluctuations from season to season have generally been smaller than those for fresh oranges. FCOJ prices have also consistently increased during seasons in which freezes occurred and in the seasons immediately following the freezes. However, the effect of the freezes on FCOJ prices has been small in some cases. For example, between the 1980/81 season and the 1981/82 season, the average price of FCOJ increased by only 2 percent, from \$3.91 per dozen 6-ounce cans to \$3.98 per dozen 6-ounce cans, despite freezes in both seasons.

Table 16.--FCOJ: Average prices received by processors,
by crop years, 1/ 1961/62 to 1982/83

| (Per dozen 6-ounce cans) | | | | |
|--------------------------|--------|-------------------------|-----------------|--|
| Crop year | Price | Crop year | Price | |
| 1961/62----- | \$1.39 | 1972/73----- | \$1.74 | |
| 1962/63 <u>2</u> /----- | 2.29 | 1973/74----- | 1.80 | |
| 1963/64----- | 2.35 | 1974/75----- | 2.03 | |
| 1964/65----- | 1.62 | 1975/76----- | 2.00 | |
| 1965/66----- | 1.62 | 1976/77 <u>2</u> /----- | 2.45 | |
| 1966/67----- | 1.19 | 1977/78----- | 3.30 | |
| 1967/68----- | 1.62 | 1978/79----- | 3.50 | |
| 1968/69----- | 1.78 | 1979/80----- | 3.04 | |
| 1969/70----- | 1.46 | 1980/81 <u>2</u> /----- | 3.91 | |
| 1970/71 <u>2</u> /----- | 1.60 | 1981/82 <u>2</u> /----- | 3.98 | |
| 1971/72----- | 1.88 | 1982/83----- | <u>3</u> / 3.95 | |

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

2/ Season in which a freeze occurred.

3/ Represents the average for December 1982-May 1983.

Source: Compiled from data developed by Florida Citrus Mutual.

Prices of FCOJ have risen moderately in recent years. For example, between the 1978/79 season and the 1981/82 season, the average price of FCOJ rose by 14 percent, from \$3.50 to \$3.98 per dozen 6-ounce cans. This increase was not out of line with price increases for related products as the Producer Price Index for all processed foods increased by 14 percent, and the index for canned fruit juices, nectars, and concentrates increased by 23 percent. 1/ FCOJ prices rose from \$3.95 in December 1981 to \$4.25 in February 1982, possibly as a result of the freeze, and then declined during the next 2 months before leveling off at \$3.95 for the remainder of the 1981/82 season and the first 5 months of the 1982/83 season (table 17).

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

Table 17.--FCOJ: Average prices received during the 1981/82 and 1982/83 seasons, 1/ by months, December 1981-May 1983

| (Per dozen 6-ounce cans) | |
|--------------------------|--------|
| Period | Price |
| 1981 (December)----- | \$3.95 |
| 1982: | |
| January----- | 4.03 |
| February----- | 4.25 |
| March----- | 4.08 |
| April----- | 3.79 |
| May-December----- | 3.95 |
| 1983: January-May----- | 3.95 |

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

Source: Compiled from data developed by Florida Citrus Mutual.

Price suppression/price depression

An econometric model consisting of five regression equations was developed by the staff as an aid in understanding the economic inter-relationships within the U.S. market for FCOJ. The analysis attempted to answer three interrelated questions. How are prices and production of fresh oranges established? What factors influence imports of FCOJ from Brazil? And finally, how are prices and shipments of domestic FCOJ determined? The quantitative estimates that resulted from researching these questions provided evidence of how changes in imports and import prices affect the domestic FCOJ market.

The regression estimates are based upon data for crop years 1964/65 through 1979/80. This was a period of relatively low import levels that included domestic freezes in 1970/71 and in 1976/77. Estimating relationships for this period permitted an evaluation of the effects of imports in the more recent period under investigation. This evaluation was accomplished by simulations with the model to determine what would have happened to prices, shipments, and imports if the recent freezes had not occurred, or if import prices had been higher or lower than they actually were. These results were then compared with what actually did happen to facilitate an assessment of the relative importance of imports from Brazil.

Fresh oranges.--Since fresh oranges are the main input used in the production of FCOJ, fluctuations in prices and production of this product have a significant effect on prices and shipments of FCOJ. But an analysis of the market for oranges is somewhat complicated by the fact that the major portion of the oranges used in producing FCOJ are shipped to processors under cooperative or participation agreements. As a result, only about 15 percent of the oranges shipped to processors involve cash transactions. However, increases or decreases in the prices that result from these cash transactions are thought to be good indicators of the scarcity or abundance of this product in relation to demand in a given season.

The regression analysis tested three commonly held observations concerning cash prices paid by processors for fresh oranges. It was believed that the average cost per box of the fresh oranges used in making FCOJ could be largely explained by production levels of fresh oranges, prices of imported FCOJ from Brazil, and a time trend.

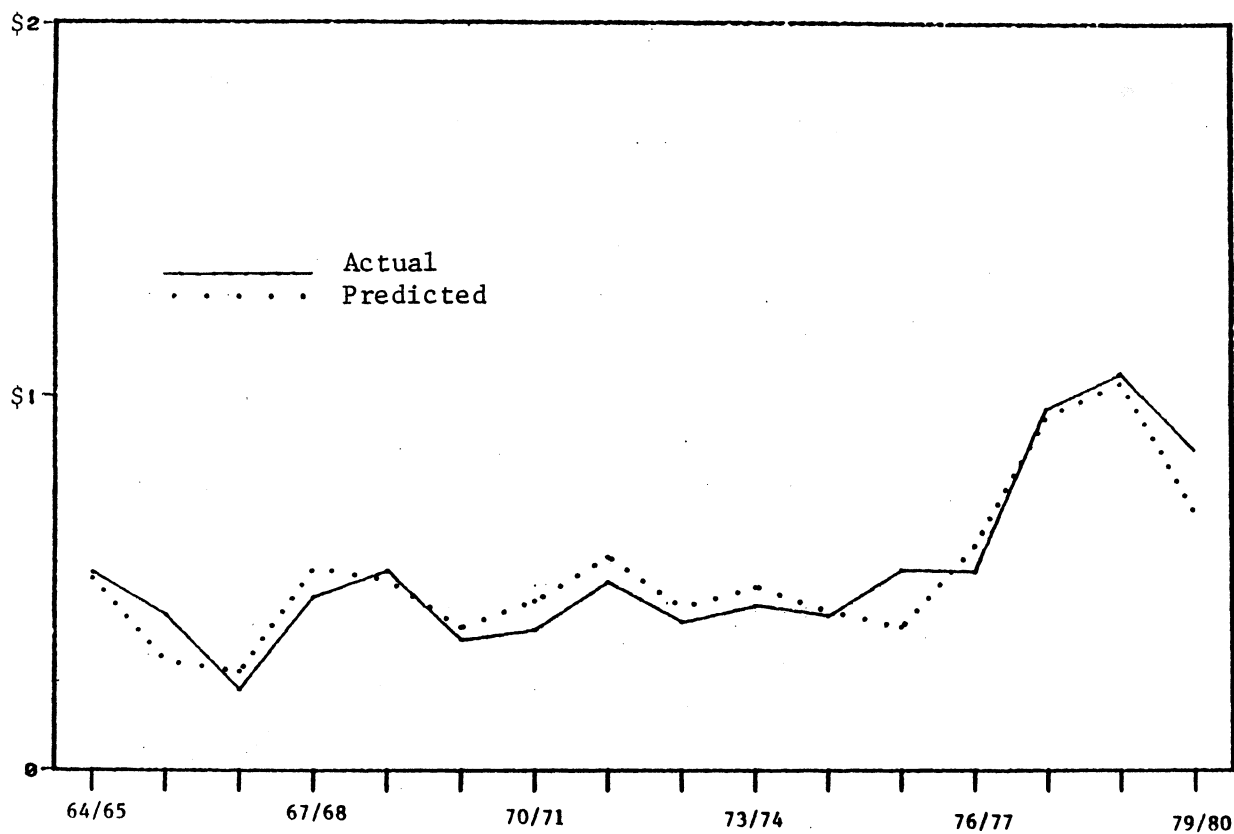
The regression results were consistent with the assumptions discussed above. The cost per box of fresh oranges was found to be negatively related to the output of fresh oranges, and positively related to the average unit values of imported concentrate from Brazil and the time trend. All three of the explanatory variables were statistically significant at the 95-percent confidence level or higher. The actual cost of oranges and costs predicted by the model are presented in figure 2. The closeness of the actual and predicted levels shows that the regression equation tracked movements in costs of oranges closely between the 1964/65 and 1979/80 crop years. The estimated coefficients from the regression indicate that a 1-percent decline in output during a given season would result in a 1.5-percent increase in the cost of oranges. They also show that a 1-percent decline in the cost of imported concentrate from Brazil would result in a 0.9-percent decline in the price of fresh oranges.

Although prices of fresh oranges are determined by short-term supply and demand conditions, production of oranges in a given season was thought to be determined solely by the amount of fruit-bearing acreage, and by the effects of freezes. Therefore, the quantities of oranges used in the production of FCOJ were regressed on fruit-bearing acreage and on qualitative variables which were intended to measure the effects of the freezes that occurred during the 1970/71 and 1976/77 crop years. The results, which were statistically significant at the 95-percent confidence level, indicated that the production of oranges is positively related to the acreage variable. However, attempts to quantify the effects of the freezes on production were not successful.

Imports of FCOJ from Brazil.--The model also attempted to measure the factors affecting the demand for imports of FCOJ from Brazil. It was believed that demand for this concentrate increases with reductions in its price and decreases with increases in its price. It was also thought that demand for imported FCOJ increases when prices of domestically produced oranges increase, and decreases when the price of oranges decreases. Finally, it was thought that demand for this imported concentrate has increased over time as a result of the growth in demand for FCOJ.

Figure 2.--Fresh oranges: Actual and predicted prices,
by crop years, 1964/65 through 1979/80

Per pound
solids



Source: Compiled from data supplied by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates made by the staff of the U.S. International Trade Commission.

These assumptions were tested by regressing imports of FCOJ from Brazil on the ratio of the import price to the cost per box of oranges and a time trend. The results indicated that the demand for imported FCOJ is highly sensitive to changes in the relative price variable. According to the estimates, a 1-percent increase in the ratio of the import price to the cost of oranges would result in a 2-percent decline in imports. The estimates also showed that imports have a tendency to increase over time. The relative price variable and the time-trend variable were both statistically significant at the 95-percent confidence level. Actual imports and imports predicted by the regression are presented in figure 3.

The FCOJ market.--The final part of the analysis focused on the factors determining the levels of total shipments, and the prices received by processors for FCOJ. Two regression equations were estimated and the results were consistent with the underlying hypothesis of a market that operates according to demand and supply assumptions. The first equation indicated that demand for FCOJ is negatively related to the price of FCOJ in retail cans and is positively related to real income in constant 1972 dollars. The second equation indicated that the supply of FCOJ, which was measured by total shipments, is directly related to the price of FCOJ in retail containers, but varies inversely with the cost per box of fresh oranges. ^{1/} All of the explanatory variables in both equations were statistically significant at the 99-percent confidence level or higher.

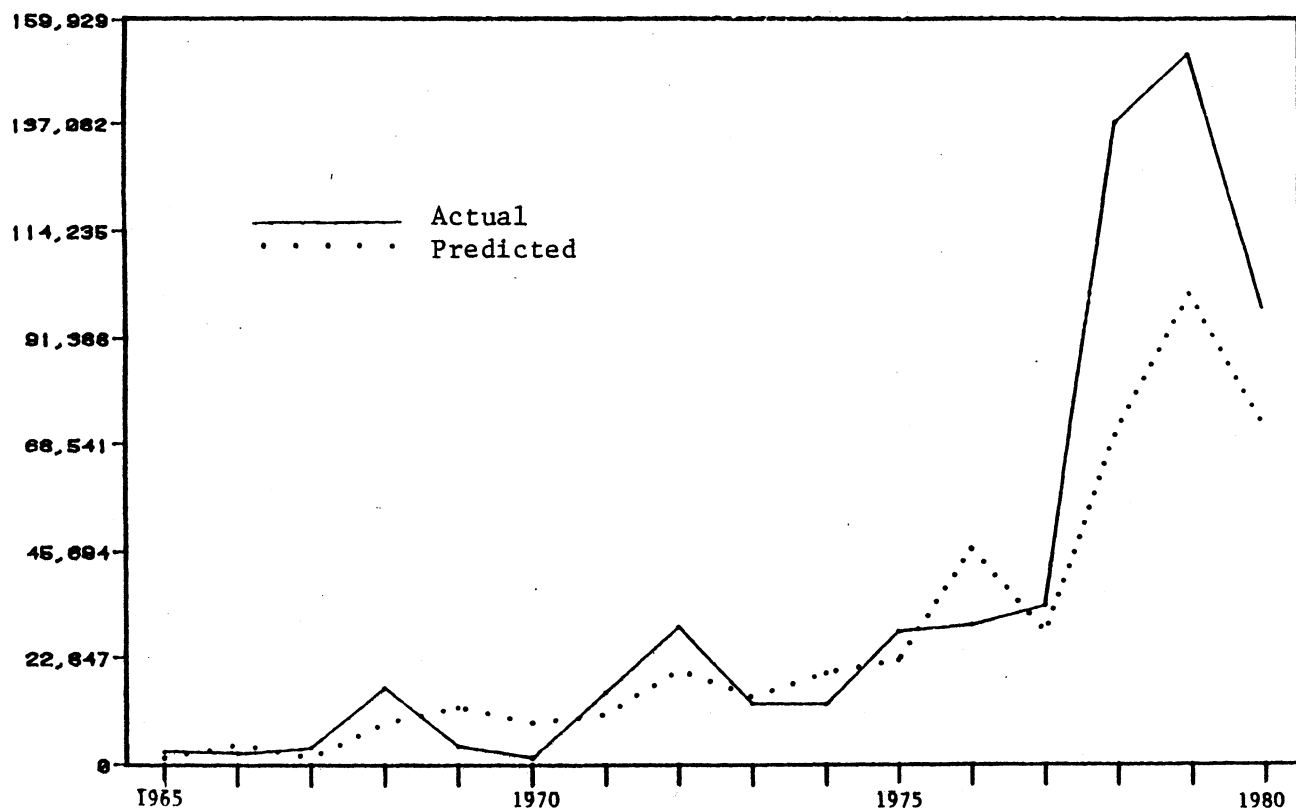
The coefficients for the price variables in the estimated equations suggest that the supply of FCOJ is highly sensitive to changes in price, but that the demand for FCOJ is fairly price inelastic. ^{2/} The results show that a 1-percent increase in the price of FCOJ would lead to a 3-percent increase in the quantity supplied. However, they also suggest that a 10-percent increase in price would cause the quantity demanded to decrease by only 5 percent. This indicates that processors would be likely to benefit from a price increase, because gains in revenue would more than offset losses in volume that would result from the higher prices.

^{1/} The shipment variable includes domestic shipments plus exports. However, exports consistently amounted to 5 percent or less of total shipments during this period.

^{2/} Despite this relatively inelastic demand by retailers, institutions and other intermediate buyers, studies have shown that demand at the consumer level is much more price elastic. Researchers have generally found that a 1-percent increase in the price of FCOJ would result in a decline of slightly more than 1 percent in the quantity demanded. A fairly recent study of consumer demand in the orange juice industry by R. Ward and D. Tilley entitled "Time Varying Parameters with Random Components: The Orange Juice Industry," was published in the December 1980 issue of the Southern Journal of Agricultural Economics.

Figure 3.--FCOJ: Actual and predicted U.S. imports
for consumption, 1965-80

1,000
gallons



Source: Compiled from data supplied by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates made by the staff of the U.S. International Trade Commission.

Besides obtaining estimates of price elasticities, it was also possible to relate price levels and quantities of shipments of FCOJ to costs of oranges and levels of real disposable income. The results show that, on average, a 1-percent increase in real disposable income would lead to a 2-percent increase in total shipments and a 1-percent increase in the price of FCOJ, and that a 10-percent increase in the cost of oranges would result in a 5-percent increase in price, and a 2-percent decline in total shipments. Predicted and actual levels of prices and of shipments are shown in figures 4 and 5.

Simulation results.--The econometric results were used to test the sensitivity of domestic prices and shipments of FCOJ to varied levels of import prices and output levels and costs of fresh oranges. In one case, the model was used to estimate the levels of domestic prices and shipments of FCOJ that would have prevailed during the 1980/81 and 1981/82 crop years if the price of the imported concentrate from Brazil had been higher. Another scenario examined what would have happened to domestic FCOJ prices and the level of imports of concentrate if freezes had not occurred in 1981 and 1982.

Higher import prices.--Simulations of prices and of shipments of FCOJ under differing import price assumptions are presented in table 18. All of the simulations allow import prices to vary while holding output of domestic oranges at actual levels during 1980/81 and 1981/82. Three sets of estimates are provided. 1/

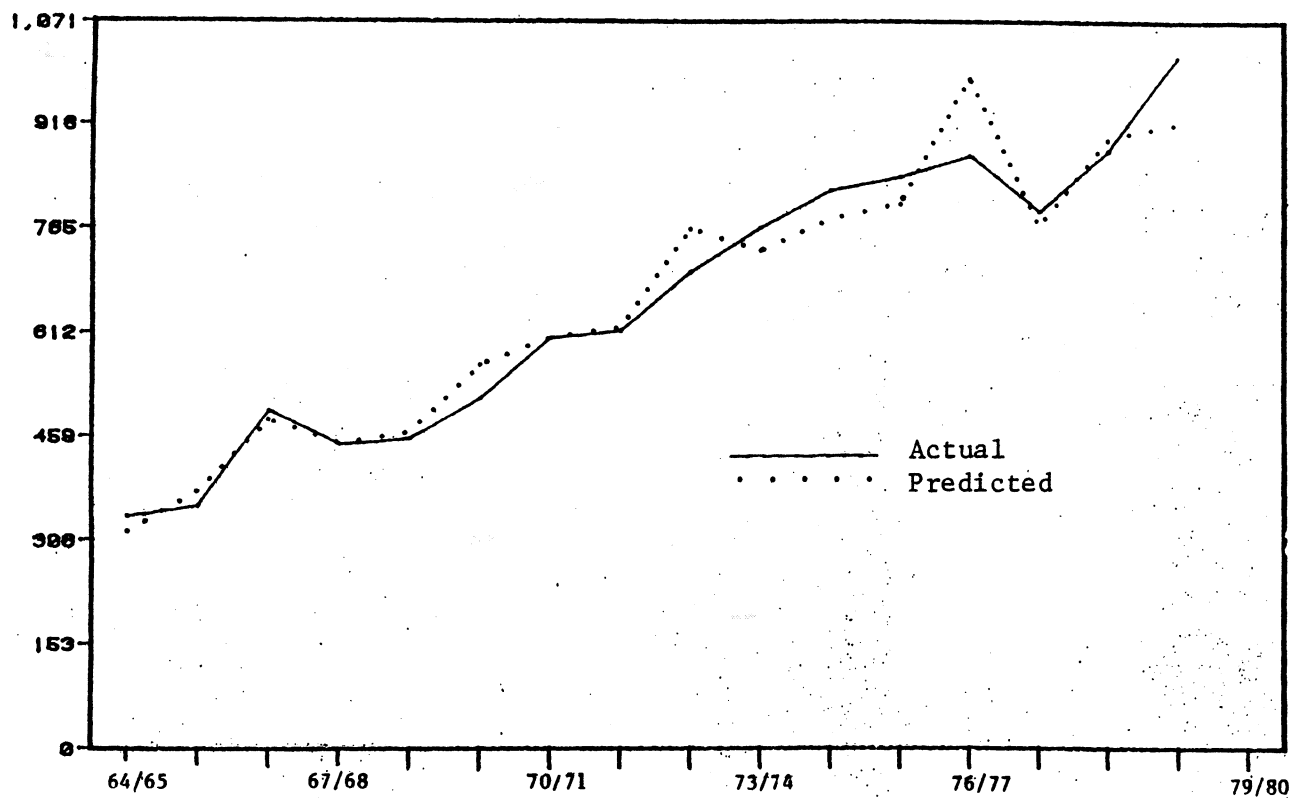
The estimates show that progressively higher prices of imported concentrate from Brazil during 1980/81 and 1981/82 would have bid up the cost of the domestic oranges used in making FCOJ to an increasing extent. This would have resulted in progressively higher prices of FCOJ. If the import price of concentrate had been just 3 percent higher, prices of FCOJ would only have reached \$3.96 per dozen 6-ounce cans in 1980/81 and \$4.03 in 1981/82, amounts that are only 5 cents higher than the actual levels of \$3.91 and \$3.98 that were recorded in those years. With a 10 percent higher price of imports, prices of domestic FCOJ would have been substantially higher in both years. With a 20 percent higher price of imports of concentrate from Brazil, domestic prices of FCOJ would have reached levels of \$4.26 in 1980/81 and \$4.34 in 1981/82.

Since the demand for FCOJ is relatively price inelastic, the higher prices of FCOJ resulting from the higher prices of imported concentrate would have had very little effect on the total volume of shipments of FCOJ in 1980/81 and 1981/82. With a 3 percent higher price of imported concentrate, domestic shipments would have reached 954 million gallons in 1980/81 and 896 million gallons in 1981/82. These quantities represent declines of less than 1 percent from the actual amounts in those years. Even with a 20 percent higher price for imported concentrate, shipments would have fallen by only 4 percent from their actual levels.

1/ A detailed explanation of the calculations is presented in app. G. A-37

Figure 4.--FCOJ: Actual and predicted levels of total shipments
by U.S. processors, by crop years, 1964/65 through 1979/80

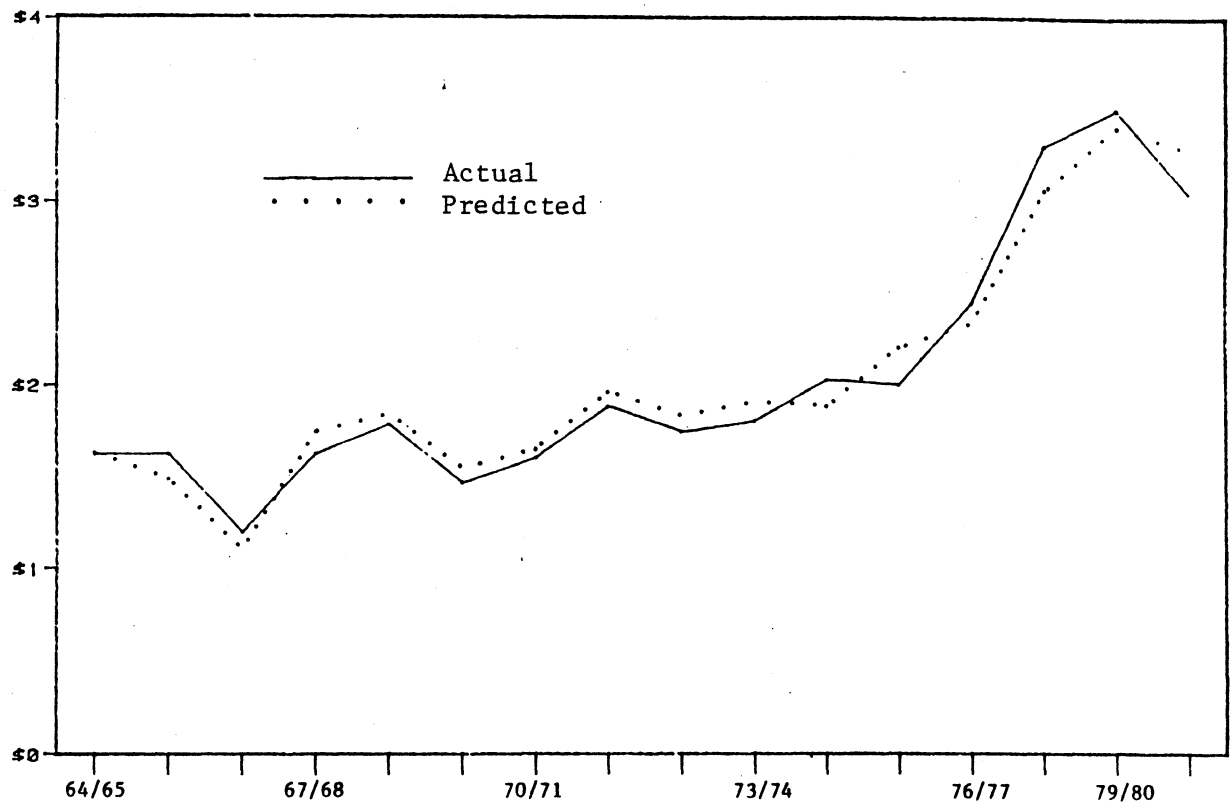
Million
gallons



Source: Compiled from data supplied by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates made by the staff of the U.S. International Trade Commission.

Figure 5.--FCOJ: Actual and predicted prices,
by crop years, 1964/65 through 1979/80

Per dozen
6-ounce
cans



Source: Compiled from data supplied by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates made by the staff of the U.S. International Trade Commission.

Table 18.--FCOJ: Actual and estimated levels of prices with progressively higher prices of imported concentrate from Brazil, by crop years, 1980/81 and 1981/82

| Item | Actual levels | Estimated prices and shipments if imports of FCOJ from Brazil were priced higher by-- | | |
|---------------------------|------------------|---|------------|------------|
| | | 3 percent | 10 percent | 20 percent |
| Shipments ^{1/} : | | | | |
| 1980/81--million | | | | |
| gallons----- | 960 | 954 | 941 | 921 |
| 1981/82-----do----- | 901 | 896 | 883 | 865 |
| Retail price: | | | | |
| 1980/81--per 12 6-ounce | | | | |
| cans----- | \$3.91 | \$3.96 | \$4.09 | \$4.26 |
| 1981/82-----do----- | \$3.98 | \$4.03 | \$4.17 | \$4.34 |

^{1/} Includes domestic shipments and exports.

Source: Compiled from data provided by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates by the Commission staff.

Effects of the freezes.--Simulations show that the back-to-back freezes in 1980/81 and 1981/82 had significant effects on prices and shipments of FCOJ in those years, and on imports of concentrate from Brazil (table 19). If production of fresh oranges had remained at its 1979/80 level of 206.7 million boxes instead of falling to 172.4 million in 1980/81 and then plummeting to 125.8 million in 1981/82, domestic oranges would have been much cheaper. As a result, FCOJ prices would have edged up only moderately from \$3.04 in 1979/80 to \$3.13 in 1980/81 and \$3.17 in 1981/82, instead of climbing to almost \$4.00 during those years. With lower prices of FCOJ, demand would have been greater. As a result, shipments of FCOJ would have increased slightly from 1.02 billion gallons in 1979/80 to 1.03 billion in 1981/82 instead of the actual decline to 901 million gallons in that year. With prices of domestic oranges significantly lower in relation to prices of imported concentrate from Brazil, imports would have increased moderately from 100 million gallons in 1979/80 to 110 million gallons in 1980/81, and to 121 million gallons in 1981/82. This contrasts sharply with the steep climb in actual imports to 352 million gallons in 1981/82.

Table 19.--FCOJ: Actual prices and shipments and estimated levels that would have resulted if freezes had not occurred, crop years 1979/80 to 1981/82

| Item | 1979/80 | 1980/81 | | 1981/82 | |
|---|---------|---------|----------------|---------|----------------|
| | Actual | Actual | Esti- mated | Actual | Esti- mated |
| Shipments <u>1</u> /--millions of gallons-- | 1,002 | 960 | 1,002 | 901 | 1,003 |
| Retail price | | | | | |
| Per dozen 6-ounce cans --- | \$3.04 | \$3.91 | \$3.13 | \$3.98 | \$3.17 |
| Imports-----millions of gallons- | 100 | 198 | 110 | 352 | 121 |

1/ Includes domestic shipments plus exports.

Source: Compiled from data provided by the Florida Department of Citrus, the U.S. Department of Commerce, and from estimates by the Commission staff.

Lost sales

Seven lost sales allegations were submitted by one domestic processor, * * *. These sales covered the period from July 1981 to December 1982 and involved * * * gallons of FCOJ (single-strength equivalent), valued at * * *.

* * * was listed as the customer in five of the allegations. * * * of * * * stated that he purchases USDA grade A FCOJ once a month, and awards all contracts on a competitive bid basis. 1/ * * * said that he has never purchased pure Brazilian FCOJ, but noted that most processors sell a blended product. * * * normally receives quotes from * * *, * * *, * * *, * * *, * * *, and a number of distributors.

In another allegation, * * * stated that it lost a sale to * * * in May 1982. * * * stated that he purchased his FCOJ requirement for the year in May 1982. 2/ The contract was awarded to * * * which supplied juice packed by * * *. * * * reported that the school had purchased FCOJ from * * * for the previous 12 years, but switched because of the lower bid by * * *. Under the school's purchasing guidelines, contracts must be awarded to the lowest bidder if the school's quality requirements are met. * * * was unaware of the exact composition of the * * *'s juice.

1/ Telephone conversation with the Commission's staff on Apr. 13, 1983.

2/ Ibid.

In the final allegation, * * * stated that it lost a sale to * * * in May 1982. * * * of the school said that FCOJ is purchased on a competitive bid basis. 1/ The low bid is accepted if the product's quality is satisfactory. * * * stated that he purchased * * * cases of FCOJ from * * * on May * * *, 1982. According to * * *, * * * and * * * initially offered identical prices. However, * * * was awarded the contract because that processor subsequently offered something extra, such as fast delivery or a discount. * * * stated that he could not specify the exact factor, since the papers from the transaction were not available. * * * did not know the composition of the FCOJ; however, the questionnaire received from * * * indicates that the firm has never purchased FCOJ from Brazil.

Lost revenues

One domestic processor, * * *, reported 12 specific instances in which it allegedly lost revenues due to the price of the Brazilian FCOJ. The total amount of revenue allegedly lost by this processor was * * *.

The staff was able to contact seven customers that accounted for nine of the allegations. None of the customers contacted were able to verify * * *'s charges.

* * * of the * * * stated that he is a broker for * * * and therefore only purchases FCOJ from that firm. 2/ * * * stated that he does not discuss price with other processors, nor does he ever purchase imported FCOJ, because of his relationship with * * *.

* * * of * * * stated that while he previously purchased FCOJ from * * *, he now buys that product from * * *. 3/ * * * stated that he switched sources due to a better deal offered by * * *, which allowed him to enter into a distributorship program. * * * is unaware of the composition of * * *'s juice.

* * * of * * * reported that he has purchased FCOJ from * * * for 20 years. 4/ He reported that * * * has not lowered its price to him for several years, and that * * *'s price has increased in the past following freezes.

* * * of * * * stated that * * * purchases FCOJ only from * * *, which has not lowered or increased its price recently. 5/ * * * was unaware of the composition of the juice.

Another customer, * * * of * * *, stated that he has seen no downward price movement in the last 2 years. 6/ Additionally, he stated that individual processors do not lower their prices because all offer the same discounts. * * * stated that he purchases FCOJ from seven separate processors in Florida.

1/ Telephone conversation of Apr. 13, 1983.

2/ Ibid.

3/ Ibid.

4/ Ibid.

5/ Ibid.

6/ Ibid.

* * * of * * * stated that all processors discount from the "card" price, and that he purchases what is required to replenish depleted stock. 1/ * * * listed four suppliers of FCOJ, and did not include * * * among them.

Finally, * * * of * * * stated that prices have moved over the past several years due to the effects of freezes, but have been stable recently. 2/ He added that all price negotiations are conducted through * * *.

A second domestic processor, * * *, provided the names of three firms to which it was forced to lower its price for FCOJ. No specific details were provided.

* * * of * * * stated that price is the key factor in his purchasing decisions. * * * added that he has purchased Brazilian FCOJ in Florida and shipped it north to his plant in * * *. * * * is currently purchasing domestic FCOJ from * * *. 3/

* * * of * * * stated that he purchases Brazilian FCOJM because Florida is unable to meet U.S. demand. 4/ * * * reported that his firm's purchases of FCOJM from Brazil as a portion of its total purchases of FCOJM has increased during the past several years, but he sees this trend reversing as Florida's production increases over the next few years. * * * stated that Brazilian FCOJM is currently priced at \$6.50 per gallon, which is above Brazil's minimum export price. * * * added that Brazilian quality has improved over time. As an example, he reported that while he formerly could use only a 10 percent blend of Brazilian juice, he currently uses a 33 percent blend.

* * * of * * * refused to discuss his firm's purchases of FCOJ.

The Question of a Threat of Material Injury

The rate of increase of imports for consumption from Brazil

Imports for consumption of FCOJ from Brazil increased irregularly but sharply (by 115 percent) from 1978/79 to 1981/82. These imports then increased at a much lower rate from December-April 1981/82 to December-April 1982/83, as shown in the following tabulation:

-
- 1/ Telephone conversation of June 22, 1983.
 - 2/ Telephone conversation of Apr. 14, 1983.
 - 3/ Telephone conversation of Apr. 20, 1983.
 - 4/ Telephone conversation of June 28, 1983.

| <u>Imports from Brazil</u> <u>(million gallons) 1/</u> | | <u>Percentage change</u> |
|---|-------|--------------------------|
| 1978/79----- | 163.9 | 2/ |
| 1979/80----- | 100.1 | -38.9 |
| 1980/81----- | 197.9 | 97.7 |
| 1981/82----- | 352.2 | 78.0 |
| December-April-- | | |
| 1981/82----- | 129.8 | 2/ |
| 1982/83----- | 139.7 | 7.6 |

1/ Single-strength equivalent.

2/ Not available.

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

| Crop year | Imports from Brazil | Index 2/ | Production, Florida round oranges | Index 2/ |
|--------------|---------------------------|----------|-----------------------------------|----------|
| | <u>Million gallons 1/</u> | | <u>Million boxes</u> | |
| 1978/79----- | 163.9 | 100 | 164.0 | 100 |
| 1979/80----- | 100.1 | 61 | 206.7 | 126 |
| 1980/81----- | 197.9 | 121 | 172.4 | 105 |
| 1981/82----- | 352.2 | 215 | 125.8 | 77 |
| 1982/83----- | 3/ | 3/ | 4/ 147.0 | 4/ 90 |

1/ Single-strength equivalent.

2/ 1978/79=100.

3/ Data are unavailable.

4/ Estimated.

As shown in the above tabulation, imports decreased in 1979/80 compared with those in the previous year, coinciding with a good crop year. Imports increased in 1980/81, when the crop was lower, and continued to increase in 1981/82, when orange production decreased further.

The amount of FCOJ from Brazil in bonded warehouses

Due to the relatively high tariff on FCOJ, there is more incentive for importers of this product to store their imports in bonded warehouses 1/ than exists with respect to imports of many other products. FCOJ imports may then be withdrawn from the bonded warehouses, and the duties paid, closer to the time the FCOJ will be used by the processor. As shown in table 20 and

1/ FCOJ may be stored almost indefinitely at the proper temperature. See memoranda of conversations with the Florida Citrus Processor Association and Florida Citrus Mutual on June 22, 1983. ^{A-44}

figure 6, estimated end-of-period imports held in bonded warehouses increased irregularly from 1972/73 to 1980/81, when such imports reached a record high of approximately 185 million gallons. ^{1/} Such imports from bonded warehouses then declined to 160 million gallons in 1981/82, when processors withdrew 25 million gallons for consumption. By April 1983, imports in bonded warehouses fell further, to 143 million gallons.

Table 20.--FCOJ: General imports and imports for consumption from Brazil, 1972/73 to 1981/82, December-April 1981/82, and December-April 1982/83

| Period | General imports | Imports for consumption | Excess of general imports over imports for consumption ^{1/} | Estimated end-of-year imports in bonded warehouses |
|-----------------|---|-------------------------|--|--|
| | -----1,000 gallons, single-strength equivalent----- | | | |
| 1972/73----- | 7,620 | 10,550 | -2,930 | <u>2/</u> |
| 1973/74----- | 18,790 | 15,884 | 2,906 | 2,906 |
| 1974/75----- | 39,897 | 29,992 | 9,905 | 12,811 |
| 1975/76----- | 34,496 | 29,064 | 5,432 | 18,243 |
| 1976/77----- | 31,860 | 28,842 | 3,018 | 21,261 |
| 1977/78----- | 140,867 | 117,470 | 23,397 | 44,658 |
| 1978/79----- | 199,504 | 163,890 | 35,614 | 80,272 |
| 1979/80----- | 99,423 | 100,122 | -699 | 79,573 |
| 1980/81----- | 303,675 | 197,876 | 105,799 | 185,372 |
| 1981/82----- | 327,122 | 352,239 | -25,117 | 160,255 |
| December-April: | | | | |
| 1981/82----- | 192,920 | 129,793 | 63,127 | 248,499 |
| 1982/83----- | 122,832 | 139,706 | -16,874 | 143,381 |

^{1/} Includes imports for reexport, which accounted for less than 0.2 percent of general imports during 1978/79 - 1981/82.

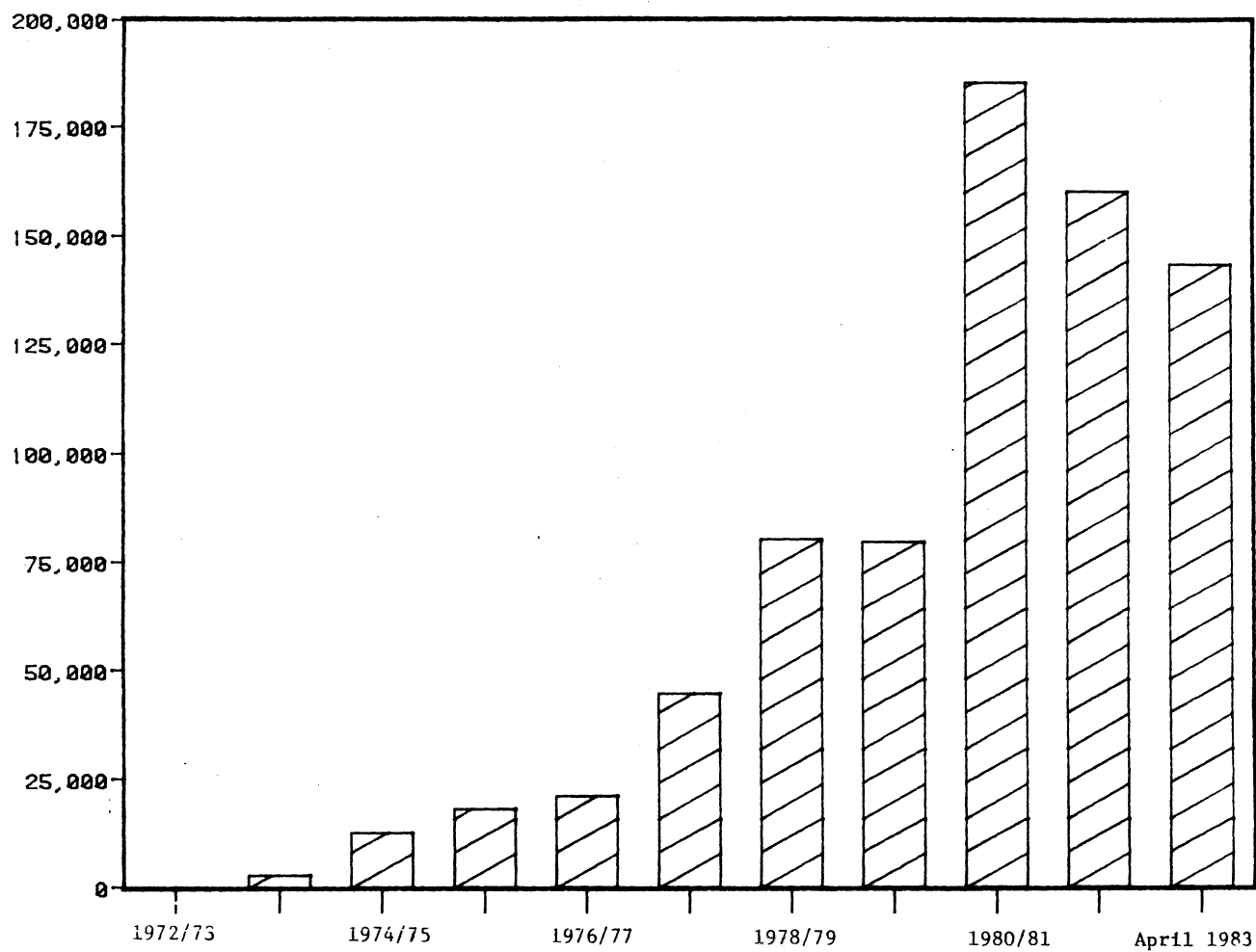
^{2/} Base year is 1972/73. Imports held in bonded warehouses during this period are believed to have been minimal.

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

^{1/} As no official statistics exist as to imports in bonded warehouses, all data are only approximations. However, the trends shown by such data are valid and indicate the patterns of entries and withdrawals.

Figure 6.--FCOJ: Imports from Brazil estimated to be in bonded warehouses, as of the end of crop years 1972/73 through 1981/82, and as of April 1983

1,000
gallons



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

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

According to data provided by the U.S. Departments of State and Agriculture, 1/ Brazil displaced the United States as the world's largest producer of oranges in crop year 1981/82. 2/ Brazil's production in that year was 180 million boxes, 3/ or 6 percent above its production of a year earlier (table 21). Brazil's production is estimated at 195 million boxes in 1982/83, and is projected to decline slightly to 190 million boxes in 1983/84.

Table 21.--Selected data on oranges and FCOJ in Brazil, by crop years, 1980/81 to 1983/84

| Item | Crop year <u>1/</u> -- | | | |
|--------------------------------|------------------------|---------|-------------------|-------------------|
| | 1980/81 | 1981/82 | 1982/83 <u>2/</u> | 1983/84 <u>2/</u> |
| Oranges: | | | | |
| Production <u>3/</u> --million | | | | |
| boxes----- | 170 | 180 | 195 | 190 |
| Fresh consumption-----do----- | 33 | 26 | 33 | 38 |
| Fresh exports-----do----- | 2 | 1 | 2 | 2 |
| Processed-----do----- | 135 | 153 | 160 | 150 |
| FCOJ: | | | | |
| Beginning stocks--million | | | | |
| gallons <u>4/</u> ----- | 86 | 53 | 28 | 145 |
| Production-----do----- | 668 | 816 | 766 | 686 |
| Domestic consumption--do----- | 22 | 22 | 22 | 24 |
| Exports-----do----- | 678 | 819 | 627 | 585 |
| Ending stocks-----do----- | 53 | 28 | 145 | 223 |

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

2/ Estimated by the USDA.

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

4/ Single-strength equivalent.

Source: Compiled from data published by the USDA.

1/ See Department of State cable dated Apr. 8, 1983; and USDA reports Nos. BR 2024, BR 2028, BR 2030, BR 2044, BR 3007, BR 3023, BR 8308A, BR 8208A, FHORT 1-83 and FHORT 7-83.

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

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

In recent years approximately 80 percent of the Brazilian orange crop was utilized in the production of FCOJ, which totaled 816 million gallons 1/ in 1981/82 and is estimated to total 766 million gallons in 1982/83. Production of FCOJ in 1983/84 is projected to be between 585 million and 780 million gallons. 2/ The actual amount produced is dependent on several factors, including demand, carryover from 1982/83, and price.

The outlook for Brazil's orange crop and FCOJ production in 1983 and the mid-1980's is for a more moderate growth than was experienced in the past decade. However, Brazil's processors are expected to have the capacity to produce as much as 1.0 billion gallons per season. 2/

As shown in table 22, the United States is one of Brazil's largest markets for FCOJ, and accounted for 39 percent of total Brazilian exports during 1978-82.

Table 22.--FCOJ: Brazil's exports, by selected markets, 1978-82

| (In millions of gallons <u>1/</u>) | | | | | | |
|-------------------------------------|-------|-------|-------|-------|-----------|--|
| Market | 1978 | 1979 | 1980 | 1981 | 1982 | |
| United States----- | 205.4 | 101.7 | 109.8 | 361.4 | 415.0 | |
| European Community: | | | | | | |
| West Germany----- | 41.0 | 54.7 | 92.2 | 88.8 | 43.6 | |
| France----- | 0.6 | 0.8 | - | - | <u>2/</u> | |
| United Kingdom----- | 18.7 | 21.4 | 31.0 | 44.0 | 23.5 | |
| Denmark----- | 6.3 | 7.7 | 9.3 | 8.7 | 3.8 | |
| Italy----- | - | - | - | .2 | - | |
| Netherlands----- | 63.5 | 81.1 | 149.1 | 255.6 | 93.0 | |
| Belgium-Luxembourg--- | 2.5 | 5.0 | 6.7 | 2.9 | 35.2 | |
| Greece----- | - | 3.2 | 2.8 | 2.2 | .6 | |
| Subtotal, European Community----- | 132.6 | 173.9 | 291.1 | 402.4 | 199.7 | |
| Canada----- | 47.2 | 40.2 | 38.2 | 33.3 | 27.5 | |
| Australia----- | 9.2 | 3.8 | 11.1 | 5.7 | 15.2 | |
| Israel----- | 13.0 | 14.4 | 10.8 | 16.9 | 8.3 | |
| Other countries----- | 60.0 | 72.9 | 97.5 | 70.2 | 59.8 | |
| Total----- | 467.4 | 406.9 | 558.5 | 889.9 | 725.5 | |

1/ Single-strength equivalent.

2/ Less than 0.05 million gallons.

Source: Compiled from official statistics of the USDA.

1/ Single-strength equivalent.

2/ As estimated by the USDA.

APPENDIX A

**COMMERCE'S FINAL DETERMINATION,
SUSPENSION AGREEMENT, AND
EXPORT TAX LETTER**

Final Affirmation Countervailing Duty Determination: Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty laws are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice. The estimated net subsidy is 2.77 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigation at the request of the government of Brazil in accordance with section 704(g) of the Tariff Act of 1930, as amended (the Act). If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative, the suspension agreement shall remain in force.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-0171.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential working capital financing for exports.
- Income tax exemption for export earnings.

We have determined the estimated net subsidy on frozen concentrated orange juice from Brazil to be 2.77 percent *ad valorem*.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative, the suspension agreement shall remain in force.

Case History

On July 14, 1982, we received a petition from Florida Citrus Mutual, filed on behalf of the U.S. growers of oranges for processing into frozen concentrated orange juice. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 2, 1982, we started an investigation (47 FR 37172). We stated that we expected to issue a preliminary determination by October 7, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until December 13, 1982 (47 FR 45896).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On September 9,

1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or are threatening to materially injure, a U.S. industry (47 FR 39740).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on August 27, 1982. On December 1, 1982, we received the response to that questionnaire.

On December 13, 1982, we preliminarily determined that the government of Brazil was providing its manufacturers, producers, or exporters of frozen concentrated orange juice with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- Preferential working capital financing for exports.
- Income tax exemption for export earnings.

Notice of the preliminary affirmative countervailing duty determination was published on December 17, 1982 (47 FR 56528). We directed the U.S. Customs Service to suspend liquidation of all entries of the frozen concentrated orange juice entered, or withdrawn from warehouse, for consumption on or after December 17, 1982, and to require the posting of a cash deposit, bond or other security in the amount of 2.655 percent of the f.o.b. value of the merchandise.

On January 25, 1983, the Department and the government of Brazil initialed a proposed agreement to suspend the countervailing duty investigation involving frozen concentrated orange juice from Brazil. The basis for the proposed agreement was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of frozen concentrated orange juice to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we consulted with the petitioners regarding the proposed agreement and provided them a copy of it. We received no comments concerning the proposed agreement.

On February 24, 1983, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the *Federal Register* on March 2, 1983 (48 FR 8839). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of frozen concentrated orange juice to the United States.

By letter of March 21, 1983, counsel for the government of Brazil requested that the investigation be continued under section 704(g) of the Act. Therefore, we have completed the investigation and are issuing a final determination.

Scope of Investigation

The product covered by this investigation is frozen concentrated orange juice as provided for in item 165.35 of the *Tariff Schedules of the United States*.

There are nine known producers and exporters in Brazil of frozen concentrated orange juice to the United States. We have received information from the government regarding three of these companies, Cargill Industrial Ltda. (CARGILL), Citrosuco Paulista S.A. (CITROSUCO) and Sucocitrico Cutrale S.A. (CUTRALE), which represented over 85 percent of exports of this product to the United States during a recent, representative period—calendar year 1981.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is March 1, 1981 to February 28, 1982 for CARGILL; and May 1, 1981 to April 30, 1982 for CITROSUCO and CUTRALE. We have referred to these periods as fiscal year 1981 in this notice. In its response, the government of Brazil provided data for the applicable periods.

Analysis of Programs

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice under the following programs.

A. Preferential Working Capital Financing for Exports: Resolution 674

Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the frozen concentrated orange juice industry can obtain this financing at preferential rates for up to 12 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. Since this program is designed to promote exports and is tied to export performance, we have determined that such financing is an

export subsidy and therefore is countervailable. This program has also been found to be countervailable in previous investigations involving Brazilian products.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, export denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. In the review period the annual rate for discounting sales of accounts receivable was 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore the differential between these two types of financing is 22.5 percent. Multiplying this differential by the amount of preferential financing received and dividing the result by the value of exports, we calculated a subsidy of 1.64 percent *ad valorem*.

On February 11, 1983, the government of Brazil notified the Department that the Banco do Brasil rate for discounting accounts receivable had increased from 59.6 percent to 72 percent effective January 3, 1983. In addition, effective January 11, 1983, the tax on financial transactions was reduced from 6.9 percent to 4.6 percent. These changes result in a subsidy rate differential of

32.6 percent rather than 22.5 percent as stated above. Consequently, since the rate established for purposes of the suspension agreement is prospective, we will use 32.6 percent as the applicable differential in determining the net subsidy rate which must be offset by an export tax under the terms of the agreement.

B. Income Tax Exemption for Export Earnings

Exporters of frozen concentrated orange juice are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit. Since the program is designed to promote exports and is tied to export performance, we have determined that it is an export subsidy and therefore is countervailable. This program has also been found to be countervailable in previous investigations involving Brazilian products.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. All three companies received benefits under this program in fiscal year 1981. By dividing the benefit received by the value of exports of the companies under investigation, we calculated a subsidy of 1.13 percent *ad valorem*.

II. Programs Determined Not To Confer Subsidies

We have determined that subsidies are not being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice under the following programs.

A. Exemption From State Value-Added Tax (ICM)

The state value-added tax (ICM) is applicable only to domestic sales of frozen concentrated orange juice. Export transactions are exempt from such taxation. The exemption of indirect taxes levied on the value added on exported goods does not constitute a countervailable benefit under either section 303 or section 701 of the Act.

B. Exemption From Federal Industrialized Products Tax (IPI)

The federal IPI value-added tax is applicable only to domestic sales of

frozen concentrated orange juice. Export transactions are exempt from such taxation. The exemption of indirect taxes levied on the value added on exported goods does not constitute a countervailable benefit under either section 303 or section 701 of the Act.

III. Program Determined Not to Be Used

We have determined that the following program was not used by the manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice.

A. Federal Industrialized Products Tax (IPI) Export Credit Premium

The IPI export credit premium program was suspended on December 7, 1979. When the IPI export credit premium was reinstated on April 1, 1981, the orange concentrate industry was specifically excluded from receiving the benefits of this program (Ministry of Finance Ordinance No. 78).

IV. Program Determined To Be no Longer in Existence

We have determined that the following program is no longer in existence.

A. State Value-Added Tax (ICM) Export Credit Premium

This program, under which Brazilian companies were eligible for an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01-79, published January 12, 1979.

Verification

In accordance with section 776(a) of the Act, we have verified data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturer's records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). There was no request of a public hearing. In accordance with the Department's regulations (19 CFR 355.34(a)), written views concerning the preliminary determination have been received and considered. All comments received were addressed in the notice of suspension of this investigation (48 FR 8839).

Suspension of Liquidation

The suspension of liquidation of entries of frozen concentrated orange juice pursuant to the preliminary

affirmative determination was terminated upon publication of the notice of suspension of the investigation.

ITC Notification

In accordance with Section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of frozen concentrated orange juice from Brazil are materially injuring, or are threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat or material injury, does not exist, the agreement will have no force or effect and this investigation will be terminated. However, if the ITC determines that such injury does exist, the suspension agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

This determination is published in accordance with section 705(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 24, 1983.

[FR Doc. 83-15021 Filed 6-3-83; 8:45 am]

BILLING CODE 3510-25-M

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving frozen concentrated orange juice from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to be subsidies on frozen concentrated orange juice exported to the United States.

EFFECTIVE DATE: March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Case History

On July 14, 1982, we received a petition from Florida Citrus Mutual, filed on behalf of the U.S. growers of oranges for processing into frozen concentrated orange juice. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 2, 1982, we initiated a countervailing duty investigation (47 FR 37172). We stated that we expected to issue a preliminary determination by October 7, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until December 13, 1982 (47 FR 45896).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On September 9, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 39740).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington,

D.C. On December 1, 1982, we received the response to that questionnaire.

On December 13, 1982, we issued our preliminary determination in this investigation (47 FR 56528). We stated in our preliminary determination that the government of Brazil was providing its manufacturers, producers, or exporters of frozen concentrated orange juice with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- Preferential working capital financing for exports.
- Income tax exemption for export earnings.

On January 25, 1983, the Department initiated a proposed agreement to suspend the countervailing duty investigation involving frozen concentrated orange juice from Brazil. The basis for the proposed agreement was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on frozen concentrated orange juice exported to the United States.

In compliance with the procedural requirements of section 704(e) of the Act, we discussed with the parties to the proceeding the proposed agreement and provided them a copy of the proposed agreement.

Scope of Investigation

The product covered by this investigation is frozen concentrated orange juice as currently provided for in item 165.35 of the *Tariff Schedules of the United States*.

There are nine known producers and exporters in Brazil of frozen concentrated orange juice to the United States. We have received information from the government of Brazil regarding three of these companies, Cargill Industrial Ltda. (CARGILL), Citrosuco Paulista S.A. (CITROSUCO) and Sucocitrico Cutrale S.A. (CUTRALE), which represented over 85 percent of exports of this product to the United States during a recent, representative period—calendar year 1981.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is March 4, 1981 to February 28, 1982 for CARGILL; and May 1, 1981 to April 30, 1982 for CITROSUCO and CUTRALE. We have referred to these periods as fiscal year 1981 in this notice.

Frozen Concentrated Orange Juice from Brazil; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

Changes Since the Preliminary Determination

Preferential Working Capital Financing for Exports: Resolution 674

On February 11, 1983, the government of Brazil notified the Department that the Banco do Brasil rate for discounting accounts receivable had increased from 59.6 percent to 72 percent effective January 3, 1983. In addition, effective January 11, 1983, the tax on financial transactions was reduced from 6.9 percent to 4.6 percent. These changes result in a subsidy rate differential of 32.8 percent rather than 22.5 percent as stated in the preliminary determination with respect to frozen concentrated orange juice. Consequently, since the rate established for purposes of the suspension is prospective, we will use 32.6 percent as the applicable differential in determining the subsidy rate from this program.

Petitioner's Comments

The Department has consulted with the petitioner, and has received no comments from them concerning the proposed suspension agreement. However, we did receive comments from the petitioner with respect to our preliminary determination.

Comment 1

The petitioner disagrees with the methodologies employed by the Department in the determination of the net subsidy stemming from the preferential working capital financing program. The petitioner alleges that access to preferential short-term financing has significantly enhanced the long-term market position of the Brazilian exporters of frozen concentrated orange juice. They argue that because of these alleged long-term benefits, the Department should equate the benefits received under this program to capital benefits and calculate the subsidy rate in a manner similar to that used to calculate the net subsidy for preferential long-term loans or capital grants. They suggest that rather than allocate the benefits of this program only to exports in the year in which such financing was received, the Department should employ a present value methodology to allocate to the review period benefits of financing received "during the past five years." They do not suggest, however, a period of time over which financing should be allocated.

Further, the petitioner argues that the benchmark used by the Department in determining the net subsidy for this program was incorrect. The petitioner argues that the Department should compound the monthly or quarterly rate

for discounting accounts receivable in order to establish an effective annual rate as a comparable benchmark for financing received under this program. In addition, they argue that the department failed to account for alleged compensating balances on these short-term loans (although illegal in Brazil).

DOC Position

The Department has in previous cases used a present value methodology to calculate the benefits stemming from long-term loans in order to match the flow of benefits more directly to the production of goods under investigation. In such instances the benefits were either allocated over the life of the loan or over the average useful life of the asset(s) purchased with the loan(s). The loans which were received by the processors of frozen concentrated orange juice under the preferential working capital financing program had a duration of less than one year and, by their nature, were not tied to assets. Likewise, the loans did not have any of the characteristics of capital grants; the amounts received are repayable and they are not tied to assets.

Therefore, the Department believes that it is inappropriate to determine the value of the benefits of this program using the present value of a cumulation of short-term loans as if they had long-term benefits for which the financial markets ordinarily account in the structure of interest rates based on maturity of instruments.

The conceptual basis for the Department's calculations of the amount of the subsidy is based on the following: (1) That the sale of an account receivable constitutes the purchase of an asset by a bank, in which the bank absorbs the risk of non-payment; (2) that once the sale is completed, the seller has no further obligation (such as repayment with interest) to the bank; and (3) that a series of sales of accounts receivable is not equivalent to rolling over a loan where interest on the original loan is compounded. As a result, the discount rate we have used is a simple rate and additive.

If the sale of an account receivable does in fact have more the character of a loan than the sale of an asset, we may have to reassess our position. We will investigate this matter further in the course of monitoring the agreement and make any necessary adjustments in the calculation of the interest differential and net subsidy.

Concerning the argument that the Department has not accounted for compensating balances when determining the net subsidy stemming from this program, we have found no

evidence of compensating balances in company records. The only deductions from the value of the receivables noted during verification were the discount, the tax on financial transactions and a commission on the transactions.

Respondent's Comments

Comment 1

The respondent argues that the benefits from preferential working capital financing are realized by a borrower at the time the cost of a loan is paid. Consequently, they argue that the Department should calculate the net subsidy based upon the date of repayment of such loans rather than to prorate the benefit throughout the duration of the loans.

DOC Position

In the notice of final results of administrative review of the countervailing duty order on certain scissors and shears from Brazil (47 FR 10266), we noted that the government of Brazil argued for the allocation of the benefits from these loans throughout the duration of the loans rather than to assign them to the period in which the loan was received. The government stated that the method of assigning the entire benefit to the period in which the loan was received did not fully allow for factors, such as increased or decreased exports from one period to another, factors, which affect the *ad valorem* value of the benefit. We agreed with the government of Brazil's argument and prorated the benefits throughout the duration of the loan. At that time we stated that when each year there is a substantial growth in the value of exports over the previous year, the allocation of the whole loan to the period in which it was received can create a distortion and overstate the value of the benefit. Likewise, in similar circumstances, the allocation of the whole loan to the period in which it is repaid can understate the value of the benefit. Therefore, we have not changed the methodology as stated in the preliminary determination.

Comment 2

The respondent argues that the benefit from the income tax exemption for export earnings should be reduced by 26 percent, the amount of taxes which corporate taxpayers may direct into certain investment funds. The corporations then receive stock for their investment. Respondent claims that had the companies subject to the investigation paid additional taxes, absent the income tax exemption program, they would have elected to

direct 26 percent of such taxes to the investment funds.

DOC Position

It is speculative to assume that the concerned companies would take part in a voluntary investment program. Moreover, the fact that the government of Brazil administers two programs exempting taxes on earnings under differing terms and conditions does not argue that the amount of the countervailable benefit under the export program should be adjusted. Consequently, the Department believes that the proper basis for calculating the benefit from this program is 100 percent of the amount of taxes saved by the companies which participated in it.

Comment 3

The respondent argues that the Department should offset the amount of any subsidies from countervailable programs by the amount of an export tax paid on the export of frozen concentrated orange juice and by the amount of a government imposed increase in the price which exporters of frozen concentrated orange juice must pay for oranges.

During the period for which we are measuring subsidization, exporters paid a 10 percent tax upon exportation of frozen concentrated orange juice. In June 1982 the government also established minimum prices which purchasers must pay for oranges. In conjunction with the establishment of those minimum prices, the export tax was reduced to one percent, the rate currently in effect. They state that processors of frozen concentrated orange juice are contractually bound "to comply with the current system for the foreign sale of frozen concentrated orange juice and to the terms that make up the (standard) agreement for setting supply prices of raw material (fruit)" in order to obtain export licenses and any financial incentives from exporting the product under investigation. Therefore, they argue that the Department should allow offsets for the export tax and the minimum price for oranges under section 771(6)(A) as application fees, deposits, or similar payments paid in order to qualify for or to receive the subsidy.

The respondent also cites two other conditions to which a company must agree in order to obtain export licenses, namely, export quotas and minimum export prices. All of these conditions, the export tax, minimum price for raw materials, export quotas and minimum export prices are part of a policy of "diversification" by which the government of Brazil controls the

exportation of certain products such as frozen concentrated orange juice, coffee, cocoa, sugar and other items.

The respondent also suggests that the Department should allow offsets for a three percent "excise equalization tax" imposed by the State of Florida and for duties paid to the United States government upon importation of frozen concentrated orange juice.

DOC Position

The government of Brazil has used certain mechanisms in its policy of diversification to restrain the exportation of certain agricultural commodities. The restraints on frozen concentrated orange juice were imposed in 1979 and have varied widely in their application since then, apparently in reaction to differing market conditions. The purpose of such restraints counters the purpose of export incentives, to expand trade. That they are imposed suggests that any financial "burdens" which result from these restraints serve another purpose than to act as applications or fees to qualify for export incentives.

The policies of restraint and expansion not only differ in purpose but also in operation. As has been noted, the restraints have varied substantially since their inception. Such controls can be further modified in nature (currently a mixture of monetary and quantitative controls), in the extent of their application, or even as to their existence. Such modifications are related to market conditions rather than to qualification for export incentives. As has been shown in previous countervailing duty investigations involving Brazilian products for which no such controls exist, the working capital financing and the income tax exemption for export earnings programs have operated independently of these controls, without any application fees or other payments which allegedly stem from such controls. The controls exist as basic conditions under which the frozen concentrated orange juice may be exported, regardless of the participation, or extent of participation of the exporters of frozen concentrated orange juice in any financial incentive program. As such, the Department considers any cost resulting from these controls to be in the nature of a general expense borne by the exporter, rather than an application fee, deposit or similar payment paid to qualify for, or to receive, the benefit of any specific subsidy program. Therefore, we have not offset the gross subsidy amount of any countervailable program by the costs of these controls. Concerning the export tax imposed under these controls,

we are indifferent as to the amount (or existence) of such a tax as it relates to the export tax to be established under the terms of the suspension as long as the latter is sufficient to offset completely the amount of the net subsidy determined by the Department to exist with respect to the subject product. In addition, the Department does not consider taxes imposed by the state of Florida and customs duties imposed by the U.S. Government to constitute offsets under the Act.

Suspension of Investigation

The Department consulted with the petitioner with respect to the proposed suspension agreement. We have determined that the agreement will offset the subsidies completely with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed February 24, 1983, are set forth in Annex 1 to this notice. Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of frozen concentrated orange juice from Brazil effective November 19, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Frozen Concentrated Orange Juice from Brazil," is hereby terminated.

Any cash deposits on entries of frozen concentrated orange juice from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within 12 months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 740(f)(1)(A) of the Act.

Dated: February 24, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

Annex I—Suspension Agreement; Frozen Concentrated Orange Juice

Pursuant to section 704 of the Tariff Act of 1930, as amended (the Act), and section

355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and the government of Brazil enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigation initiated on August 2, 1982 (47 FR 37172) with respect to frozen concentrated orange juice from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to frozen concentrated orange juice manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject product"), as currently provided for in item 165.35 of the *Tariff Schedules of the United States*.

B. Basis of the Agreement

1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department in this proceeding to exist with respect to the subject product. The offset shall be accomplished by an export tax applicable to the subject product exported on or after April 30, 1983. The export tax shall offset completely any benefits found to exist with respect to the following programs:

- (a) Preferential working capital financing for exports.
- (b) Income tax exemption for export earnings.

(c) Any other program subsequently determined by the Department to constitute a subsidy under the Act to the subject product.

The Department shall officially notify the government of Brazil of any determination made with respect to items (a) through (c) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits offset by the agreement.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigation and until the imposition of an export tax no later than April 30, 1983 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject product will not exceed the average monthly rate of exports to the United States in the period June 1981-May 1982. Exports in excess of this quantity will constitute a violation of the agreement pursuant to section 704(i) of the Act.

C. Monitoring of the Agreement

1. The government of Brazil agrees to supply to the Department documentation concerning the method and time of payment of the export tax and other information the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The government of Brazil shall notify the Department if any exporters of the subject product which benefit from the programs described in paragraph B.1 regarding the

manufacture, production or export of the subject product transship the subject product through third countries to the United States.

3. The government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on July 1, 1983 whether it continues to be in compliance with the agreement by offsetting completely the net subsidy referred to in paragraph B.1 and whether it has substituted any new or equivalent benefits for the benefits offset by the agreement. The first certification shall include the period April 30, 1983-June 30, 1983. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation or issuance of a countervailing duty order.

4. The government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject product, of any change in the rate of the export tax, or if it decides to alter or terminate its obligations with respect to any of the terms of the agreement.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed on this 24th day of February 1982 for the Government of Brazil.

José Alfredo Graça Lima,

First Secretary of the Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to frozen concentrated orange juice exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

Department of Commerce.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-5235 Filed 3-1-83; 8:45 am]

BILLING CODE 3510-25-M

APR 18 1983

Mr. Luiz Felipe P. Lampreia
 Minister-Counselor
 Brazilian Embassy
 3006 Massachusetts Avenue, N.W.
 Washington, D.C. 20008

Dear Mr. Lampreia:

Pursuant to the provision of the agreement suspending the investigation of frozen concentrated orange juice, the government of Brazil is required to impose an export tax on all shipments of frozen concentrated orange juice exported from Brazil to the United States on or after April 30, 1983. As stated in the Federal Register notice announcing the suspension agreement, we do not consider that the present export tax constitutes an offset to the subsidy determined to exist with respect to frozen concentrated orange juice. Therefore, a separately identifiable export tax should be established under the terms of the agreement "to offset completely the amount of the net subsidy determined by the Department....to exist with respect to the subject product."

According to our calculations, the export tax should not be lower than 3.51 percent of the f.o.b. value of these exports. This is based upon the following:

| | |
|--|-------|
| Resolution 674 financing | 2.38% |
| Income tax exemption for export earnings | 1.13% |

The rate of export tax is derived from information for 1981 received during the investigation, but with an adjustment in the rate for Resolution 674 financing to reflect the increase in the "interest differential" as stated in the February 11, 1983 letter from the Ministry of Finance, government of Brazil.

We recognize that benefits from these programs may vary somewhat from year to year. Should there be an increase in benefits under any of the programs, benefits will be received on exports before information is submitted and analyzed in a section 751 administrative review and before a new rate for the offsetting export tax can be established. Consequently, it is the responsibility of the Brazilian government to establish the export tax at a level sufficiently high to ensure that when a section 751 review is completed all subsidies have been fully offset.

On March 21, 1983, we received a request from counsel for the government of Brazil, that we continue this investigation. We will make our final determination on or before June 6, 1983. Should any changes occur in our calculations as a result of the determination, you will be notified and we will change the rate of export tax required for remaining in compliance with the suspension agreement.

Should you need any further information or assistance in this matter, please contact Mr. Francis R. Crowe of my staff (202) 377-3051.

Sincerely,

Gary N. Horlick

Gary N. Horlick
Deputy Assistant Secretary
for Import Administration

26658

FR 4-12-83
sent 4/15/83
BA
W. J. K. C. 5/1/83

APPENDIX B

WITNESSES APPEARING AT THE HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Frozen Concentrated Orange Juice
from Brazil

Inv. No. : 701-TA-184 (Final)

Date and time : June 17, 1983 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the imposition of countervailing duties:

Barnes, Richardson & Colburn--Counsel
Washington, D.C.
Maguire, Voorhis and Wells--Counsel
Orlando, Florida
on behalf of

Florida Citrus Mutual (FCM)

William F. Raley, President

Bobby F. McKown, Executive Vice President and
General Manager

Philip Herndon, Vice president, Alcoma
Packing Company

Dr. Dan L. Gunter, Economic Research Director,
Florida Department of Citrus

Edward E. Martin, Consulting Economist

Barnes, Richardson & Colburn

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

Maguire, Voorhis and Wells

Raymer F. Maguire, Jr.--OF COUNSEL

- more -

Wyatt and Saltzstein--Counsel
Washington, D.C.
on behalf of

Citrus World, Inc. & Winter Garden Citrus Products

Robert A. Seltzstein)
Stephen Feldman }--OF COUNSEL

In opposition to the imposition of countervailing duties:

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

The Associacao Brasileira das Industrias de Sucos
Citricos (ABRASSUCOS)

Dulio Bento, Representative

Jonothan Quelch, Harvard University School of
Business Administration

Schnittker Associates, Washington, D.C.

By: John A. Schnittker

and

Clark Davis

Noel Hemmendinger)
Royal Daniel, III)--OF COUNSEL
Robert G. Kalik)

APPENDIX C

**COMMISSION'S NOTICES OF INSTITUTION AND
SCHEDULING OF THE HEARING**

Department of Commerce that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-184 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Department of Commerce is scheduled to make its final subsidy determination in the case on or before February 24, 1983, and the Commission will make its final injury determination by April 14, 1983 (19 CFR 207.25).

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

SUPPLEMENTARY INFORMATION:

Background.—On August 30, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly subsidized imports of frozen concentrated orange juice from Brazil. The preliminary investigation was instituted in response to a petition filed on April 12, 1982, by counsel for Florida Citrus Mutual, an association of orange growers.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives,

who are parties to this investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 18, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on March 8, 1983, in Grand Hall C of the Holiday Inn International, 65157 International Drive, Orlando, Florida. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 24, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 2, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 1, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 16, 1983.

Written submissions.—As mentioned, parties to this investigation may file A-64 prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before

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

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Commission.

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

EFFECTIVE DATE: December 16, 1982.

SUMMARY: As a result of an affirmative preliminary determination by the U.S.

March 16, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 23, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-33244 Filed 12-29-82; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

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

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Commission.

ACTION: Scheduling of a hearing to be held in connection with the subject investigation.

EFFECTIVE DATE: May 31, 1983.

SUMMARY: The Commission hereby announces the scheduling of a hearing to begin at 10:00 a.m. on June 17, 1983, in connection with the investigation.

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

SUPPLEMENTARY INFORMATION:

Background.—On December 16, 1982, the Commission instituted this final countervailing duty investigation involving frozen concentrated orange juice from Brazil (47 FR 58051, December 29, 1982). The Commission suspended the investigation following the signing of a suspension agreement between the Government of Brazil and the Department of Commerce (48 FR 9969, March 9, 1983), but then continued its investigation, effective March 21, 1983, following receipt of a request for continuation by counsel for the Government of Brazil (48 FR 15016, April 6, 1983). On May 31, 1983, the Commission received Commerce's final subsidy determination and, accordingly, must make its final injury determination by July 14, 1983.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 17, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 10, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11:00 a.m. on June 14, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs in June 13, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR § 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary

and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 24, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 24, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: June 2, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-15210 Filed 6-3-83; 8:45 am]

BILLING CODE 2020-02-M

A-66

APPENDIX D

FDA STANDARDS OF IDENTITY FOR FCOJ

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

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

- (1) Is concentrated to less than 41.8 or more than 47 degrees Brix. The Brix reading, if determined refractometrically, shall include corrections for citric acid.
- (2) Has a lower ratio of total soluble solids to anhydrous citric acid of less than 12 to 1 or a higher ratio of total soluble solids to anhydrous citric acid than 19.5 to 1.
- (3) Contains more than 0.120 milliliters of recoverable oil per 100 grams of concentrate.
- (4) Contains any additives of any kind.
- (5) Does not taste essentially the same as freshly expressed orange juice of similar quality and is not completely free of all fermented, cooked, terpeny, or other off-flavors; or does not meet all requirements of the rules of the Department of Citrus regarding color, absence of defects, taste, and flavor; unless the immediate container thereof shall be labeled in accordance with rules of the Department of Citrus, and there shall appear on such label the word "substandard" in bold type not less than one-fourth inch high printed or stamped diagonally thereon.

History.--s. 108, ch. 25149, 1949; s. 1, ch. 29759, 1955; s. 1, ch. 4-68 61-67; s. 22, ch. 71-186; s. 1, ch. 77-6; s. 161, ch. 79-164.

Note.--Former s. 501.0108.

§ 146.146

Title 21—Food and Drugs

§ 146.146 Frozen concentrated orange juice.

(a) Frozen concentrated orange juice is the food prepared by removing water from the juice of mature oranges as provided in § 146.135, to which juice may be added unfermented juice obtained from mature oranges of the species *Citrus reticulata*, or hybrids thereof, or of *Citrus aurantium*, or both. However, in the unconcentrated blend the volume of juice from *Citrus reticulata* shall not exceed 10 percent and from *Citrus aurantium* shall not exceed 5 percent. The concentrate so obtained is frozen. In its

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

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

Chapter I—Food and Drug Administration

§ 146.150

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

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

(d) The name of the food concentrated to a dilution ratio of 3 plus 1 is "frozen concentrated orange juice" or "frozen orange juice concentrate". The name of the food concentrated to a dilution ratio greater than 3 plus 1 is "frozen concentrated orange juice, _____ plus 1" or "frozen orange juice concentrate, _____ plus 1", the blank being filled in with the whole number showing the dilution ratio; for example, "frozen orange juice concentrate, 4 plus 1". However, where the label bears directions for making 1 quart of orange juice from concentrate (or multiples of a quart), the blank in the name may be filled in with a mixed number; for example, "frozen orange juice concentrate, 4½ plus 1". For containers larger than 1 pint, the dilution ratio in the name may be replaced by the concentration of orange juice soluble solids in degrees Brix; for example, a 62° Brix concentrate in 3¼-gallon cans may be named on the label "frozen concentrated orange juice, 62° Brix".

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

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

more restrictive requirements than those set forth in this section.

§ 146.148 Reduced acid frozen concentrated orange juice.

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

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

(45 FR 12414, Feb. 26, 1980)

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

APPENDIX E
FLORIDA CITRUS CODE STANDARDS FOR FCOJ

March 1982

Department of Citrus
Chapter 20-64
Page 3

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

- (1) Product shall meet the minimum requirements of subsections (1) through (5) of Section 601.9909, Florida Statutes, except that:
 - (a) 1. Percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, shall be not less than 44.8 percent nor more than 47 percent. This Brix provision shall not apply to frozen concentrated orange juice packed and certified for shipment outside the United States and Canada.
 2. Section (1)(a)1. notwithstanding, effective July 15, 1980, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product produced to fill Federal government purchase contracts shall be identical to the Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.
 3. Section (1)(a)1. notwithstanding, effective December 1, 1980, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product packed and certified for shipment to Canada and other export markets shall be identical to the Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.
 4. Section (1)(a)1. notwithstanding, effective December 1, 1980, the percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product for sale or shipment within the United States shall be not less than 43.2 percent nor more than 47 percent.
 5. Section (1)(a)1 and 4. notwithstanding, effective December 1, 1981, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for all product shall be identical to the then current Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.
 - (b) The Brix-acid ratio as provided in Section 601.9909(2), Florida Statutes, shall not be less than thirteen to one, nor more than nineteen and one-half to one, except that, where a permit is approved by the Commission for the production and sale of limited quantities of a frozen concentrated orange juice manufactured by a separate process involving the reduction of naturally occurring acid of the product without the use of additives of any kind, the product shall have a ratio of not less than twenty-one to one nor more than twenty-six to one.

- (c) Oil content as provided in Section 601.9909(3), Florida Statutes, shall be not less than .010 percent and not more than .035 percent by volume on a reconstituted basis.

(2) **Flavor:**

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

(3) **Washed pulp solids:**

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

(4) **Hard finishing:**

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

- (a) Remove non-sinking pulp by pouring the product, reconstituted to 11.8°Brix and brought to 80°F., through a 20/mesh 304 stainless steel screen (Citrus Strainer SK-1027 RC) or a standard Ecko type screen.
- (b) Place the product in a table model International Clinical Centrifuge 11½ inches in diameter and equipped with the following:
 1. Variable voltage transformer
 2. Either a strobe light tachometer or a vibration tachometer with a gauge measuring at least 1500 revolutions per minute and graduated in increments of 25 RPM. or less
 3. Electric timer with automatic cut-off switch
 4. Short conical 50 Ml. graduated tubes
- (c) Adjust the centrifuge speed to 1500 revolutions per minute and centrifuge for exactly ten minutes.
- (d) After centrifuging, the militer reading at the top of the layer of pulp in the tube is multiplied by two to determine the percentage of sinking pulp.

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

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

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

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

- (a) Conform to the subjective (i.e. exclude ratio) flavor requirements of U.S. or Florida Grade A for each respective product involved. If no such grade standard has been adopted for a given product, that product shall have a reasonably good flavor, characteristic of the type or types of fruit from which the product was made. This subsection shall not apply to product made solely from *C. aurantium*.
- (b) Have a Brix-acid ratio of not less than eleven to one. However, this subsection shall not apply to product made solely from tangerines or *Citrus aurantium*.
- (c) Have been produced from citrus fruit conforming to the requirements of subsection 20-64.07(5).
- (d) Conform to the requirements of subsection 20-64.07(3).
- (e) Not be made from a blend containing any product which, if graded separately, fails to meet any of the foregoing subjective flavor (i.e. exclude ratio) requirements.

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

March 1, 1982

Department of Citrus
Chapter 20-64
Page 5

- (a) A six-ounce can of product shall be placed undisturbed in running tap water, 70° to 80°F., for 30 minutes, and then placed in a water bath maintained at 80°F., plus or minus 2°F., for 24 hours. Minimum space between cans in the water bath shall be ¼ inch. The can shall be taken without agitation from the water bath and the concentrate removed and examined in the following manner: carefully cut and remove one end of the can; place an inverted transparent container, not over 4 inches inside diameter and not over 2 inches in height, over the open end of the can and, keeping the container tightly against the can, invert the can without allowing any of the concentrate to escape. Punch a small hole in the end of the can and remove the can, allowing the concentrate to flow slowly into the container.
- (b) The degree of gelation shall be designated as:
1. Zero (0) gel - Concentrate is uniform in appearance and contains no gelled lumps.
 2. Number 1 gel - Concentrate contains a few small gelled lumps, however is completely fluid and has no tendency to mound.
 3. Number 2 gel - Concentrate contains many gelled lumps and show resistance of flow, however no portion of the concentrate retains the shape of any part of the can. When poured, concentrate has a tendency to mound.
 4. Number 3 gel - Definite degree of gel formation is evident in the concentrate as indicated by any portion of the product showing and retaining the shape of any part of the can.
 5. Number 4 gel - Extreme degree of gel formation is evident as indicated by over 75% of the concentrate retaining the shape of the can.
- (c) When frozen concentrated orange juice is to be packed in containers other than six ounce, and not in excess of one gallon, at the time of filling a representative sample of the product shall be sealed in six ounce cans and the product frozen. These cans shall then be used for the required gel test.
- (d) To determine the degree of gelation in frozen concentrated orange juice in containers larger than one gallon, a representative sample shall be taken, reconstituted to 41.8° Brix with distilled water, and sealed in six ounce cans. This sample shall be tested by the standard method of gel test described above. Should fermentation, as indicated by an increase in pressure within the can, occur during storage of the sample in the water bath at 80°F. for 24 hours, or should the product, upon examination, show a Number 3 gel or more, a retest for degree of gelation shall be made using the standard method, except that the can of concentrate, thawed to 40°F., shall be held at 40°F., plus or minus 2°F. for six days.

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

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

- (1) Product shall be exempt from the requirements of subsection 601.9909(1), Florida Statutes, but shall meet all other requirements of Section 601.9909, Florida Statutes.
- (2) The product shall be tested for degree of gelation as provided in subsection 20-64.07(7).

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

APPENDIX F

TSUSA ITEM 165.3540 AND HEADNOTES

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1983)

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

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1 - 12 - A

| G S P | Item | Stat. Suf- fix | Articles | Units of Quantity | Rates of Duty | | |
|-------------|------|----------------------|--|-------------------------|---------------|------|---|
| | | | | | 1 | LDDC | 2 |
| | | | <p align="center">PART 12. - BEVERAGES</p> <p><u>Part 12 headnotes:</u></p> <p>1. This part covers only products which are fit for use as beverages or for beverage purposes.</p> <p>2. The standard for determining the proof of brandy and other spirits or liquors of any kind when imported is the same as that which is defined in the laws relating to internal revenue. The Secretary of the Treasury, in his discretion, may authorize the ascertainment of the proof of wines, cordials, or other liquors and fruit juices by distillation or otherwise, when it is impracticable to ascertain such proof by the means prescribed by existing law or regulations.</p> <p>3. The duties prescribed on products covered by this part are in addition to the internal-revenue taxes imposed under existing law or any subsequent Act. The duties imposed on products covered by this part which are subject also to internal-revenue taxes are imposed only on the quantities subject to such taxes; except that, in the case of distilled spirits transferred to the bonded premises of a distilled spirits plant under the provisions of section 5232 of the Internal Revenue Code of 1954, the duties are imposed on the quantity withdrawn from customs custody.</p> <p>4. Provisions for the free entry of certain samples of alcoholic beverages are covered by part 5 of schedule 8.</p> <p align="center">Subpart A. - Fruit Juices</p> <p><u>Subpart A headnotes:</u></p> <p>1. The products described in this subpart are covered herein whether or not containing ethyl alcohol, but any such products which are also described in subpart C or D of this part are classifiable in said subpart C or D.</p> <p>2. For the purposes of this subpart, a concentrated juice may be in liquid, powdered, or solid form.</p> | | | | |

| G S P | Item | Stat. Suf- fix | Articles | Units of Quantity | Rates of Duty | | |
|--|--------|----------------------|---|-------------------------|---------------|------|---|
| | | | | | 1 | LDDC | 2 |
| | | | <p>3. For the purposes of this subpart --</p> <p>(a) the term "<u>gallon</u>" in the "Rates of Duty" column of the provisions applicable to fruit juices means gallon of natural unconcentrated juice or gallon of reconstituted juice;</p> <p>(b) the term "<u>reconstituted juice</u>" means the product which can be obtained by mixing the imported concentrate with water in such proportion that the product will have a Brix value equal to that found by the Secretary of the Treasury from time to time to be the average Brix value of like natural unconcentrated juice in the trade and commerce of the United States; and</p> <p>(c) the term "<u>Brix value</u>" means the refractometric sucrose value of the juice, adjusted to compensate for the effect of any added sweetening materials, and thereafter corrected for acid.</p> <p>4. In determining the number of gallons of reconstituted fruit juice which can be obtained from a concentrate, the degree of concentration shall be calculated on a volume basis to the nearest 0.5 degree, as determined by the ratio of the Brix value of the imported concentrated juice to that of the reconstituted juice, corrected for differences of specific gravity of the juices. Any juice having a degree of concentration of less than 1.5 (as determined before correction to the nearest 0.5 degree) shall be regarded as a natural unconcentrated juice.</p> <p>5. In determining the degree of concentration of mixed fruit juices (item 165.65), the mixture shall be considered as being wholly of the component juice having the lowest Brix value.</p> <p><u>Subpart A statistical headnote:</u></p> <p>1. For the purposes of statistical reporting in this subpart, the term "<u>gallon</u>" in the "Units of Quantity" column means gallon of natural unconcentrated juice or gallon of reconstituted juice (as defined in headnote 3(b) above).</p> <p style="text-align: center;">-----</p> <p>Fruit juices, including mixed fruit juices, concentrated or not concentrated, whether or not sweetened:</p> <p>Not mixed and not containing over 1.0 percent of ethyl alcohol by volume:</p> <p>Apple or pear..... Gal..... Free <u>1/</u> 5c per gal. <u>1/</u></p> <p>Citrus fruit:</p> <p>Lime..... Gal. 10c per gal. <u>1/</u> 70c per gal. <u>1/</u></p> <p>Not concentrated..... Gal.</p> <p>Concentrated..... Gal.</p> <p>Other:</p> <p>Not concentrated..... Gal..... 20c per gal. <u>1/</u> 70c per gal. <u>1/</u></p> <p>Concentrated..... Gal. 35c per gal. <u>1/</u> 70c per gal. <u>1/</u></p> <p>Orange..... Gal.</p> <p>Other..... Gal.</p> | | | | |
| | 165.15 | 00 | | | | | |
| | 165.25 | 20 | | | | | |
| | | 40 | | | | | |
| | 165.30 | 00 | | | | | |
| | 165.35 | | | | | | |
| | | 40 | | | | | |
| | | 70 | | | | | |
| <p><u>1/</u> Imports under this item may be subject to Federal Excise Tax (26 U.S.C. 5001 and 5041) as follows:</p> <p>A) If containing distilled spirits, a tax of \$10.50 per proof gallon and a proportionate tax at the all fractional parts of a proof gallon.</p> <p>B) If containing wine, a tax of --</p> <p>1) 17c per wine gallon on still wines containing not more than 14% of alcohol by volume; ⁷⁷</p> <p>2) 67c per wine gallon on still wines containing more than 14% and not exceeding 21% of alcohol by volume;</p> <p>3) \$2.25 per wine gallon on still wines containing more than 21% and not exceeding 24% of alcohol by volume;</p> <p>4) \$3.40 per wine gallon on champagne and other sparkling wines; and</p> <p>5) \$2.40 per wine gallon on artificially carbonated wines.</p> | | | | | | | |

APPENDIX G
ECONOMETRIC RESULTS USED IN ANALYSIS
OF PRICE SUPPRESSION

