White Grape Juice Concentrate from Argentina

Investigation Nos. 701-TA-681 and 731-TA-1591 (Preliminary)

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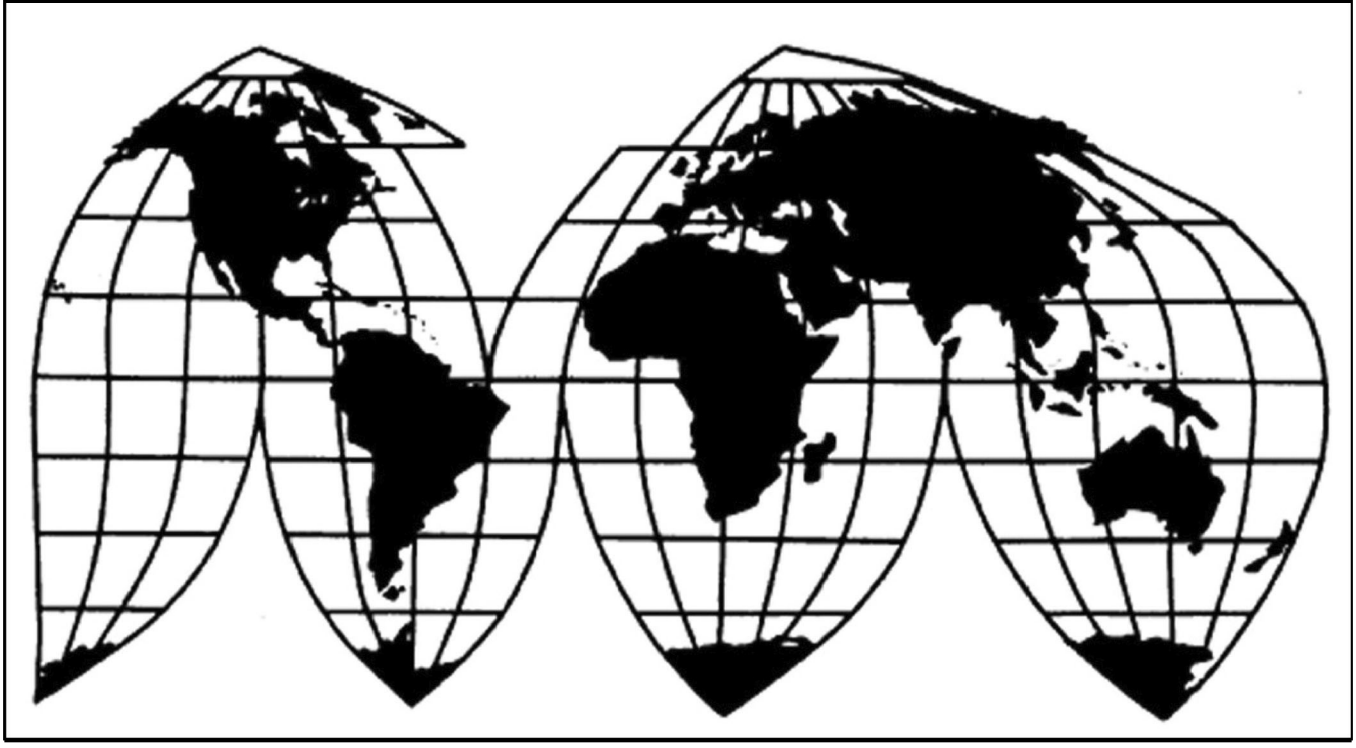
U.S. International Trade Commission



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Publication 5238

May 2022

CONTENTS

Page

CONTENTS

Page

CONTENTS

Page

CONTENTS

Page

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-681 and 731-TA-1591 (Preliminary)

White Grape Juice Concentrate from Argentina

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of white grape juice concentrate ("WGJC") from Argentina, provided for in subheading 2009.69.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV") and to be subsidized by the government of Argentina.[2]

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce ("Commerce") of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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

[2] 87 FR 24934 and 87 FR 24934 (April 27, 2022).

BACKGROUND

On March 31, 2022, Delano Growers Grape Products, LLC, Delano, California, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of WGJC from Argentina and LTFV imports of WGJC from Argentina. Accordingly, effective March 31, 2022, the Commission instituted countervailing duty investigation no. 701-TA-681 and antidumping duty investigation no. 731-TA-1591 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 7, 2022 (87 FR 20458). The Commission conducted its conference on April 21, 2022. All persons who requested the opportunity were permitted to participate.

Views of the Commission

Based on the record in the preliminary phase of these investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of white grape juice concentrate ("WGJC") from Argentina that are allegedly sold in the United States at less than fair value and imports of WGJC from Argentina that are allegedly subsidized by the government of Argentina.

I. The Legal Standard for Preliminary Determinations

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

[1] 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); *see also American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); *Aristech Chem. Corp. v. United States, 2*0 CIT 353, 354-55 (1996). No party argues that the establishment of an industry in the United States is materially retarded by the allegedly unfairly traded imports.

[2] *American Lamb Co*., 785 F.2d at 1001; *see also Texas Crushed Stone Co. v. United States*, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

II. Background

Parties to the Investigation. Delano Growers Grape Products, LLC ("Delano" or "petitioner"), a domestic producer of white grape juice concentrate ("WGJC"), filed the petitions in these investigations on March 31, 2022. Petitioner appeared at the staff conference and submitted a postconference brief.[3]

One respondent, Cepas Argentinas S.A. ("Cepas"), a producer and exporter of WGJC in Argentina and a U.S. importer, participated in these investigations. Cepas appeared at the conference, submitted a short statement in advance of the conference, and submitted a postconference brief.

Data Coverage. U.S. industry data are based on the questionnaire response of Delano, which is believed to have accounted for 85.0 percent of U.S. production of WGJC for commercial use in 2021.[4] U.S. import data are based on official Commerce import statistics and from questionnaire responses from seven U.S. importers, accounting for almost half, *i.e.*, 46.5 percent of the value of total imports from Argentina under HTS subheading 2009.69.00 in 2021.[5] Foreign industry data are based on questionnaire responses from six producers of

[3] In light of the restrictions on access to the Commission building due to the COVID-19 pandemic, the Commission conducted its staff conference by videoconference and written witness testimony as set forth in procedures provided to the parties.

[4] Confidential Report, Memorandum INV-UU-049, ("CR"), as amended by Memorandum INV-UU-050, Public Report, *White Grape Juice Concentrate from Argentina*, Inv. Nos. 701-TA-681 and 731-TA-1591 (Preliminary), USITC Pub. 5328 (May 2022) ("PR") at I-4.

[5] CR/PR at I-4. HTSUS 2009.69.00 is a "basket category." CR/PR at I-4. Cepas estimated that subject imports accounted for 90 percent of all merchandise imported from Argentina under HTS subheading 2009.69.00. CR/PR at IV-1 n.3; Conference Transcript ("Conference Tr.") at 195-96 (Alarcón).

subject merchandise in Argentina, accounting for approximately *** percent of exports of WGJC from Argentina.[6]

III. Domestic Like Product

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[7] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[8] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[9]

By statute, the Commission's "domestic like product" analysis begins with the "article subject to an investigation," *i.e.*, the subject merchandise as determined by Commerce.[10] Therefore, Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at less than fair value is "necessarily the starting point of the

[6] CR/PR at I-4, VII-3. Staff believe that this figure may be understated. CR/PR at I-4, VII-3.
[7] 19 U.S.C. § 1677(4)(A).
[8] 19 U.S.C. § 1677(4)(A).
[9] 19 U.S.C. § 1677(10).
[10] 19 U.S.C. § 1677(10). The Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at less than fair value. *See*, *e.g.*, *USEC, Inc. v. United States*, 34 Fed. App'x 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

Commission's like product analysis."[11] The Commission then defines the domestic like product in light of the imported articles Commerce has identified.[12] The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[13] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[14] The Commission looks for clear dividing lines among possible like products and disregards minor

[11] *Cleo Inc. v. United States*, 501 F.3d 1291, 1298 (Fed. Cir. 2007); *see also Hitachi Metals, Ltd. v. United States*, Case No. 19-1289, slip op. at 8-9 (Fed. Cir. Feb. 7, 2020) (the statute requires the Commission to start with Commerce's subject merchandise in reaching its own like product determination).

[12] *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Hosiden Corp. v. Advanced Display Mfrs.,* 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Torrington Co. v. United States*, 747 F. Supp. 744, 748–52 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) (affirming the Commission's determination defining six like products in investigations where Commerce found five classes or kinds).

[13] *See*, *e.g.*, *Cleo*, 501 F.3d at 1299; *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[14] *See*, *e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

variations.[15] The Commission may, where appropriate, include domestic articles in the domestic like product in addition to those described in the scope.[16]

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as follows:

> {W}hite grape juice concentrate with a Brix level of 65 to 68, whether in frozen or non-frozen forms. White grape juice concentrate is concentrated grape juice produced from grapes of the Vitis vinifera L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.*, Thompson Seedless), as well as several varietals of wine grapes (*e.g.*, Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this investigation covers white grape juice concentrate regardless of whether it has been certified as kosher, organic, or organic kosher. The white grape juice concentrate subject to this investigation consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included.
>
> The scope does not cover white grape juice concentrate produced from grapes of the Vitis labrusca species (*e.g.*, Niagara).
>
> The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for

[15] *See*, *e.g.*, *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49*; see also* S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[16] *See*, *e.g.*, *Pure Magnesium from China and Israel*, Inv. Nos. 701-TA-403 and 731-TA-895-896 (Final), USITC Pub. 3467 at 8 n.34 (Nov. 2001); *Torrington,* 747 F. Supp. at 748-49 (holding that the Commission is not legally required to limit the domestic like product to the product advocated by the petitioner, co-extensive with the scope).

> convenience and customs purposes; the written description of the scope is dispositive.[17]

WGJC is 100 percent concentrated grape juice, made from fresh grapes. It may be made from grape varieties that are grown primarily for use as wine grapes, table grapes (*i.e.*, fresh consumption), or raisins. WGJC is generally made from grapes either grown specifically for the concentrate market (sometimes under contracts between growers and WGJC processors), or from supplies of grapes that were originally grown for the table grape, raisin, or wine markets. As discussed further below, processors concentrate the grape juice to remove water and provide a specific sugar content (known as the Brix level) desirable to purchasers.[18] WGJC is used as an ingredient in beverages (primarily as an extender in juice blends); as a natural sweetener in foods and other edible products; and as an input in the winemaking process.[19]

A. Arguments of the Parties

Petitioner's Argument. Delano argues that the Commission should define a single domestic like product, consisting of WGJC coextensive with the scope.[20] It claims that all WGJC is a distinct product from other juice concentrates, including apple juice concentrate ("AJC"), pear juice concentrate ("PJC"), Niagara grape juice concentrate ("NJC"), and red grape juice concentrate ("RGJC").[21]

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[17] *White Grape Juice Concentrate From Argentina: Initiation of Less-Than-Fair-Value Investigation*, 87 Fed. Reg. 24934 (Apr. 27, 2022); *White Grape Juice Concentrate From the Republic of Argentina: Initiation of Countervailing Duty Investigation*, 87 Fed. Reg. 24945 (Apr. 27, 2022).

[18] Brix level is a measurement of sweetness based on pure sucrose content in water. CR/PR at I-6 n.14. By this measure, 1 degree Brix is equivalent to 1 gram of sucrose per 100 grams of solution. *Id.*

[19] CR/PR at I-6 – I-7.

[20] Delano Postconference Br. at 6-11; Petitions at 16-20.

[21] Delano Postconference Br. at 6-11; Petitions at 16-20.

Respondent's Argument. Cepas does not challenge petitioner's proposed definition of the domestic like product.

B. Analysis

Based on the record of the preliminary phase of the investigations, we define a single domestic like product consisting of WGJC, coextensive with the scope.

Physical Characteristics and Uses. The record indicates that all WGJC shares common physical characteristic and end uses. All WGJC is 100 percent concentrated grape juice.[22] Processors concentrate the grape juice to remove water and provide a specific sugar content desirable to buyers.[23] Concentrate in the range of 65 to 68 Brix, as described in the scope, provides the sweetening properties that buyers need while also ensuring that the liquid is not too thick (as it would be if the Brix level exceeded 68).[24] Neutral flavor and color are other desired product characteristics of WGJC.[25]

All WGJC is used as an ingredient in beverages, foods, and other edible products such as oral medications.[26] For example, it may be blended with other fruit juices in juice blends, or it may serve as an ingredient in baked goods, jams, or jellies.[27] Because of its neutral color and flavor, its primary purpose in these applications is as an extender in juice blends and as a natural sweetener in the other applications.[28] WGJC can also be used as an input in

[22] CR/PR at I-6.
[23] CR/PR at I-6 – I-7.
[24] CR/PR at I-6 – I-7.
[25] CR/PR at I-7; Delano Postconference Br. at 8; Conference Tr. at 17 (Stenderup), and at 19-20, 73-74, 127-28 (Lord).
[26] CR/PR at I-7.
[27] CR/PR at I-7.
[28] CR/PR at I-7.

winemaking, to increase alcohol content during fermentation, as a sweetener post-fermentation, and to stabilize color before bottling.[29]

The record also indicates that WGJC is distinct from other juice concentrates in terms of physical characteristics. According to Delano, AJC, PJC, and NJC have distinct flavors and different Brix levels compared to WGJC.[30] Delano further maintains that RGJC is distinguished by its red color, which is one of the desired characteristics of the product.[31]

Manufacturing Facilities, Production Processes and Employees. The record indicates that WGJC is produced using a common manufacturing process at the same facilities by overlapping employees. Upon arrival at the processing facility, harvested grapes are dumped into a hopper, which then flows into a rotary stemmer-crusher that separates the fruit from the stem.[32] After that, a dejuicer removes 30 to 35 percent of the grapes' juice, which flows through a screen. The remaining pulp empties into a continuous screw press to extract more juice. The juices from these two steps are then combined, and the soluble solids are removed by rotary vacuum filtration, pressure leaf filtration, or centrifugation.[33] The juice is then moved to a concentrating column, where heat and pressure reduce its water content and concentrate the grape juice to a sweetness level of 65 to 68 Brix.[34] If the WGJC is going to be stored for longer periods, which is often done to smooth supply throughout the year, it is put into refrigerated storage after the evaporation step; this intermediate product is known as crude

[29] CR/PR at I-7 & n.19; Conference Tr. at 111-12 (Bitter).
[30] Delano Postconference Br. at 8-9.
[31] Delano Postconference Br. at 9; Petitions at 16-17; Conference Tr. at 72 (Lord).
[32] CR/PR at I-8.
[33] CR/PR at I-8.
[34] CR/PR at I-8.

concentrate.[35] To produce WGJC from crude concentrate, the crude concentrate is reconstituted, and additional filtration is used to adjust the color and pH level of the juice before it is re-evaporated.[36] Because WGJC produced from crude concentrate held in storage may develop a darker color, processors serving buyers interested in lighter colored WGJC must add powdered activated carbon to absorb the color, which is then filtered out before the final evaporation step.[37]

Some buyers may require WGJC that is certified organic, kosher, or both organic and kosher, which adds additional production steps and/or employees. Although the same facilities and employees are used in the production of these products, the process of switching between conventional, organic, and kosher production involves thoroughly cleaning the manufacturing equipment to remove traces of the conventional product.[38] In the case of kosher WGJC production, rabbis from a kosher certification organization must supervise the production process.[39]

According to Delano, it does not produce juice concentrate products other than WGJC,[40] although two other domestic producers are believed to produce both WGJC and RGJC using the same production process.[41]

[35] CR/PR at I-8.
[36] CR/PR at I-8.
[37] CR/PR at I-8 – I-9; Petitions at 19.
[38] CR/PR at III-4 n.11.
[39] CR/PR at I-7 – I-8; Conference Tr. at 76-78 (Lord); Petitions at 19.
[40] Conference Tr. at 78-79 (Lord).
[41] Conference Tr. at 80-82 (Bitter); Delano Postconference Br. at 10.

Channels of Distribution. According to Delano, all WGJC is sold to end-users or brokers/distributors.[42] Delano also contends that some brokers/distributors sell RGJC, AJC, PJC, and NJC, in addition to WGJC.[43]

Interchangeability. Although all WGJC is used in the same end uses, including as ingredients in food, beverages, and other edible products, such as medicines, the record indicates that certain end uses, such as those requiring kosher and/or organic certifications, require specific types of WGJC.[44] Additionally, the interchangeability of different types of WGJC in the same end uses might be limited by customer specifications,[45] as well as by regional or varietal labeling requirements for wine.[46]

Most responding market participants reported that certain out-of-scope products, including AJC, PJC, and other grape juice concentrates, could be substituted for WGJC in the same end uses.[47] Delano, however, maintains that the interchangeability between WGJC and out-of-scope products is limited due to the distinct flavors and/or colors of these other products.[48]

Producer and Customer Perceptions. According to Delano, because of its nearly colorless and flavorless qualities, WGJC is perceived by producers and customers to be a distinct product.[49]

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[42] Delano Postconference Br. at 10; Petitions at 18. In its questionnaire response, Delano reported that it sold *** of its WGJC to food and drink end users. CR/PR at Table II-1.

[43] Delano Postconference Br. at 10.

[44] CR/PR at I-7 – I-8; Conference Tr. at 76-78 (Lord).

[45] Conference Tr. at 108-9 (Lord).

[46] Delano Postconference Br. at 9; Conference Tr. at 112 (Bitter).

[47] CR/PR at II-9.

[48] Delano Postconference Br. at 9-10; Petitions at 17-18; Conference Tr. at 127-28 (Lord).

[49] Delano Postconference Br. at 11; Petitions at 19.

Price. According to Delano, WGJC is sold at a range of price points depending on the type of WGJC, with conventional WGJC carrying the lowest prices and kosher and organic WGJC commanding the highest prices. It further contends that AJC is priced lower that WGJC, while RGJC and NJC are priced higher.[50]

Conclusion. All WGJC shares the same physical characteristics in being made from concentrated white grape juice and being nearly colorless and flavorless, and these characteristics are reflected in customer and producer perceptions of WGJC as a distinct product. Additionally, all WGJC is used in overlapping end uses, as ingredients in food, beverages, and other edible products, and appears to be sold through the same channels of distribution. All WGJC is also produced in the same manufacturing facilities using the same production processes and employees, although the production of organic WGJC requires the use of organic grapes and thorough cleaning of manufacturing facilities to remove traces of the conventional product and kosher WGJC requires supervision by rabbis from a kosher certification organization. There are also differences between conventional, organic, and kosher WGJC in terms of price and interchangeability, which may be limited based on these product categories. Interchangeability may also be limited by regional and varietal labeling requirements. On balance, however, the preponderance of similarities between the different types of WGJC indicate that there are no clear dividing lines that would warrant the definition of separate domestic like products.

Additionally, we recognize there is some overlap between WGJC and out-of-scope juice concentrates in terms of end uses, interchangeability, manufacturing processes, and channels

[50] Petitions at 19-20.

of distribution. However, the record indicates that the differences between WGJC and these other products with respect to physical characteristics, producer and customer perceptions, manufacturing facilities, production employees, and price, are sufficient to find that they are not like or most similar to WGJC so as to expand the definition to include them in the domestic like product.

Accordingly, based on the limited information on the record of the preliminary phase of these investigations, and in the absence of any contrary argument, we define a single domestic like product consisting of WGJC, coextensive with the scope.

IV. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[51] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

These investigations raise the issue of whether growers of white grapes should be included in the definition of the domestic industry. There are no related parties issues.[52] Delano argues that the Commission should define the domestic industry as processors that

[51] 19 U.S.C. § 1677(4)(A).

[52] The only domestic producer to have submitted a questionnaire response, Delano, imported no subject merchandise and is not related to any importer or foreign producer and exporter of subject merchandise. CR/PR at III-2.

produce WGJC and that growers should not be included in the domestic industry.[53] Cepas does not dispute petitioner's proposed definition of the domestic industry.

In cases involving processed agricultural products, section 771(4)(E) of the Tariff Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the process agricultural product if:

> (a) the processed agricultural product is produced from the raw product through a single continuous line of production,[54] and
>
> (b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon the relevant economic factors.[55]

Based on the limited information on the record of the preliminary phase of the investigations, we find that the first prong of the grower/processor provision is not satisfied because there is not a "continuous line of production" from white grape growers to WGJC processors.[56] Specifically, the record indicates that the white grapes used to produce WGJC are

[53] Delano Postconference Br. at 12; Delano April 11, 2022 General Issues Questionnaire Responses at 3.

[54] The statute provides that the processed product shall be considered to be processed from the raw product in a single, continuous line of production if:

(a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(b) the processed agricultural product is produced substantially or completely from the raw product. 19 U.S.C. § 1677(4)(E)(ii).

[55] In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

(a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product. 19 U.S.C. § 1677(4)(E)(iii).

[56] 19 U.S.C. § 1677(4)(E)(i)(I).

not substantially or completely devoted to the production of WGJC. The record shows that white grapes used to produce WGJC are also used to produce other products, such as table grapes, wine, and raisins.[57] Given this, and in the absence of any contrary argument, we do not include growers of white grapes in our definition of the domestic industry for purposes of these preliminary determinations.

In sum, consistent with our definition of the domestic like product, we define the domestic industry to include all processors of WGJC.

V. Negligible Imports

Pursuant to Section 771(24) of the Tariff Act, imports with respect to a subject investigation corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.[58]

During the twelve-month period preceding the filing of the petitions (March 2021 through February 2022), imports of WGJC from Argentina accounted for *** percent of total

[57] CR/PR at I-6; Conference Tr. at 58 (Packer). For the same reasons, the second prong of the grower/processor provision does not appear to be satisfied either. Specifically, growers that produce white grapes primarily for use as table grapes, wine, or raisins would not appear to have a significant coincidence of economic interest with producers of WGJC. Further, although Delano obtains most of the white grapes that it processes into WGJC from growers within its cooperative – and therefore may have a coincidence of economic interest with those growers – it also purchases white grapes from unrelated growers. CR/PR at V-1, VI-1 n.4, VI-6-7. These unrelated growers, which also serve the table grape, raisin, and wine markets, would not possess a substantial coincidence of interest with WGJC processors. Furthermore, the size of these other markets for white grapes suggests that the economic interest of many unrelated growers may instead coincide with purchasers in the table grape, raisin, and wine markets, rather than with WGJC processors.

[58] 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B).

imports of WGJC, for both the countervailing and antidumping duty investigations.[59] Accordingly, we find that imports for each of the subject investigations are not negligible.

VI. Reasonable Indication of Material Injury by Reason of Subject Imports

A. Legal Standard

In the preliminary phase of antidumping and countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[60] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[61] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[62] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[63] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[64]

[59] CR/PR at Table IV-3.

[60] 19 U.S.C. §§ 1671b(a), 1673b(a).

[61] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[62] 19 U.S.C. § 1677(7)(A).

[63] 19 U.S.C. § 1677(7)(C)(iii).

[64] 19 U.S.C. § 1677(7)(C)(iii).

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[65] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[66] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[67]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative

[65] 19 U.S.C. §§ 1671b(a), 1673b(a).

[66] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[67] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[68] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[69] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[70] It is clear

[68] SAA at 851-52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[69] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e.*, it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[70] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

that the existence of injury caused by other factors does not compel a negative determination.[71]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports."[72] The Commission ensures that it has "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and that it is "not attributing injury from other sources to the subject imports."[73] The Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[74]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial

[71] *See Nippon Steel Corp*., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[72] *Mittal Steel*, 542 F.3d at 876 &78; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology."), *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 793 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission's causation analysis as comporting with the Court's guidance in *Mittal*.

[73] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 877-79. We note that one relevant "other factor" may involve the presence of significant volumes of price-competitive nonsubject imports in the U.S. market, particularly when a commodity product is at issue. In appropriate cases, the Commission collects information regarding nonsubject imports and producers in nonsubject countries in order to conduct its analysis.

[74] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

evidence standard.[75] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[76]

B. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.[77]

1. Demand Conditions

U.S. demand for WGJC depends on the demand for U.S.-produced downstream products.[78] As discussed above, WGJC is used as an ingredient in beverages, foods, and other edible products such as oral medications.[79] It can also be used as an input in winemaking.[80] Delano reported that demand for WGJC in the U.S. market *** during the period of investigation ("POI"), while a plurality of importers reported that it fluctuated.[81] Demand for

[75] We provide in our discussion below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[76] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp*., 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[77] Although Delano does not internally consume WGJC, seven of the additional nine domestic producers of WGJC listed in the petitions are wine producers believed to produce WGJC for internal consumption only; it is unclear whether the two other producers also internally consume WGJC or sell the product in the commercial market. CR/PR at III-I nn.1-2. Nevertheless, Delano states that there is no significant production of WGJC for internal consumption, and there is no information on the record indicating otherwise. *See* Delano Postconference Br. at 30. In the absence of any evidence that domestic producers internally transfer significant production of WGJC for the production of a downstream article, we find that the threshold criterion for application of the captive production provision is not satisfied. 19 U.S.C. § 1677(7)(C)(iv). In any event, because Delano reported no internal consumption of WGJC, all record information concerning market share and the domestic industry's financial performance pertain to the merchant market for WGJC.

[78] CR/PR at II-7.

[79] CR/PR at I-7.

[80] CR/PR at I-7 & n.19; Conference Tr. at 111-12 (Bitter).

[81] CR/PR at II-8 & Table II-4.

WGJC may be affected by the availability and price of substitute products, such as AJC.[82] Apparent U.S. consumption declined by *** percent during the POI, decreasing from *** gallons in 2019 to *** gallons in 2020 and to *** gallons in 2021.[83]

2. Supply Conditions

The record in the preliminary phase of these investigations indicates that the domestic industry increased its market share during the POI to become the predominant source of supply to the U.S. market in 2020.[84] Domestic industry shipments as a share of apparent U.S. consumption increased from *** percent in 2019 to *** percent in 2020 and *** percent in 2021.[85]

Delano, the only responding domestic producer, is a grower cooperative that receives grapes from member growers, and purchases grapes from outside growers; processes the grapes into WGJC; and then returns the sales proceeds to member growers.[86] Delano also

[82] *See, e.g.*, CR/PR at II-6, II-9; Conference Tr. at 169 (Ruiz).

[83] CR/PR at Table C-1. Apparent U.S. consumption may be understated because it is based upon questionnaire responses that cover a subset of domestic production and imports of WGJC. As indicated above, the Commission received questionnaire responses from one U.S. producer, Delano, believed to account for 85.0 percent of WGJC production in the United States, and from U.S. importers accounting for 46.5 percent of the value of total imports from Argentina under HTS subheading 2009.69.00 in 2021. CR/PR at I-4. Additionally, responding subject foreign producers reported considerably higher volumes of exports of WGJC to the United States compared to the quantities of U.S. shipments of subject imports reported by responding U.S. importers, which are used in determining apparent U.S. consumption. Responding U.S. importers reported U.S. shipments of WGJC from Argentina of 6.5 million gallons in 2019, 4.8 million gallons in 2020, and 3.7 million gallons in 2021. CR/PR at Table IV-4. By contrast, responding subject foreign producers reported exports of WGJC to the United States of *** gallons in 2019, *** gallons in 2020, and *** gallons in 2021. CR/PR at Table VII-3. In any final phase of these investigations, we will seek responses from additional domestic producers and U.S. importers and consider what the best available information is to evaluate subject import volumes.

[84] In contrast, the domestic industry was the second largest source of supply to the U.S. market in the beginning of the POI, *i.e.*, 2019. CR/PR at Table C-1. The domestic industry remained the predominant source of supply to the U.S. market in 2021. *Id.*

[85] CR/PR at Table C-1.

[86] CR/PR at V-1, VI-1 n.4, VI-6.

purchases white grapes for production of WGJC from unrelated growers.[87] According to Delano, other domestic producers have exited the market "over the years" and growers, which supply the domestic industry with grapes, have replaced grape vines with other, more profitable crops.[88] Delano reported that ***.[89]

Subject import shipments as a share of apparent U.S. consumption decreased from *** percent in 2019 to *** percent in 2020 and *** percent in 2021.[90] Six of the seven responding importers reported experiencing supply constraints during the POI.[91] In particular, importers reported supply constraints related to shipping delays and supply chain issues due to the COVID-19 pandemic.[92] Additionally, reported production of WGJC in Argentina declined during the POI from *** gallons in 2019 to *** gallons in 2020 and to *** pounds in 2021.[93] Responding foreign producers reported production constraints related to *** in the supply of grapes as well as ***.[94] Additionally, according to Delano, the government of Argentina

[87] CR/PR at V-1, VI-1 n.4, VI-6-7.

[88] Delano Postconference Br. at 18, 20.

[89] CR/PR at II-6.

[90] CR/PR at Table C-1. As discussed above, the reported volume and market share of subject imports may be considerably understated due to the limited questionnaire coverage of subject imports.

[91] CR/PR at II-6.

[92] CR/PR at II-6. Cepas disputes Delano's assertion that the decrease in the quantity of subject imports in 2020 was attributable to port closures related to the COVID-19 pandemic, claiming that Cepas continued to export subject merchandise to the United States that year. Cepas Postconference Br. at 12. At the same time, Cepas acknowledges that the COVID-19 pandemic did, in fact, severely affect the shipping of WGJC around the world, and specifically to the United States, and claims that such effects continued throughout 2021 and into the present. Cepas Written Statement at 5. *** that during 2021 and continuing into the present, port congestion and shortages of export containers during the COVID-19 pandemic severely affected its global operations and ability to ship WGJC to the U.S. market. CR/PR at II-6.

[93] CR/PR at Table VII-3.

[94] CR/PR at VII-6.

diverted a lower volume of grapes from winemaking to other uses, including WGJC, in 2020 and 2021 compared to 2019.[95]

Nonsubject import shipments accounted for the smallest share of apparent U.S. consumption throughout the POI, although their market share increased from *** percent in 2019 to *** percent in 2020 and to *** percent in 2021.[96] The largest sources of nonsubject imports during the POI were Spain and Chile, which combined accounted for 73.7 percent of nonsubject imports in 2021.[97]

3. Substitutability and Other Conditions

Based on the record in the preliminary phase of these investigations, we find that there is a moderate-to-high degree of substitutability between the domestic like product and subject imports.[98] Delano reported that the domestic like product and subject imports are *** interchangeable.[99] A majority of responding importers reported WGJC from both sources are frequently interchangeable, with the remaining importers reporting them to be sometimes interchangeable.[100] Substitutability between the domestic like product and subject imports is reportedly limited by domestic content requirements for a portion of the market;[101] although it is unclear how much of the U.S. market this portion represents.[102]

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[95] Delano Postconference Br. at 23-28.
[96] CR/PR at Table C-1.
[97] CR/PR at II-6.
[98] *See* CR/PR at II-10.
[99] CR/PR at Tables II-6, II-7.
[100] CR/PR at Tables II-6, II-7.
[101] CR/PR at II-10.
[102] At the conference, a representative from Delano estimated that U.S. origin requirements accounted for approximately two percent of Delano's business, while a Cepas representative estimated that purchases subject to U.S.-origin requirements accounted for about 15 to 20 percent of the U.S. market. Conference Tr. at 116 (Lord), 199-200 (Martinez).

We also find price to be an important factor in purchasing decisions, among other important factors. Responding purchasers most frequently reported price/cost and availability as among their top three most important purchasing factors, although they reported quality most frequently as their most important purchasing factor.[103] Consistent with these purchaser responses, the parties agree that price is an important purchasing factor in the U.S. market.[104]

WGJC is sold in the U.S. market primarily in non-frozen form, and may be categorized as conventional (*i.e.*, neither organic nor kosher), organic, kosher, or organic and kosher WGJC. During the POI, all domestically produced WGJC and the vast majority of subject imports were sold as non-frozen concentrate, with frozen concentrate accounting for only a small proportion of U.S. shipments of subject imports in 2020 and 2021.[105] Although some purchasers require WGJC that is certified organic, kosher, or both organic and kosher,[106] both Delano's and U.S. importers' U.S. shipments of WGJC consisted predominantly of conventional WGJC.[107] *** of Delano's remaining U.S. shipments were of kosher, not organic WGJC, although it also shipped smaller quantities of organic WGJC and WGJC that was both kosher and organic.[108] The balance of U.S. importers' U.S. shipments consisted primarily of organic, not kosher WGJC, with the remainder being kosher, not organic WGJC.[109] U.S. importers reported *** U.S. shipments of WGJC that was both kosher and organic during the POI.[110] According to Cepas, subject

[103] CR/PR at Table II-5.
[104] Conference Tr. at 18 (Senderup), 21 (Lord), 200 (Alarcón).
[105] CR/PR at Tables F-1, F-2.
[106] CR/PR at I-7.
[107] CR/PR at Tables F-4, F-5; *see also* CR/PR at Tables V-3 – V-6.
[108] CR/PR at Tables F-4, F-5; *see also* CR/PR at Tables V-3 – V-6.
[109] CR/PR at Tables F-4, F-5; *see also* CR/PR at Tables V-3 – V-6.
[110] CR/PR at Tables F-4, F-5; *see also* CR/PR at Tables V-3 – V-6.

producers manufacture relatively little kosher WGJC because their reliance on sulfites as a preservative precludes them from obtaining kosher certification.[111]

Delano and U.S. importers reported selling WGJC to all regions in the contiguous United States,[112] although respondents maintain that subject import sales were concentrated on the east coast during the POI.[113] According to Cepas, due to logistical difficulties and prohibitive shipping costs, 12.9 percent of subject imports were shipped to California during the POI, while 76.1 percent were shipped to the east coast during that time.[114] Cepas also alleges that the cost to ship domestic WGJC from California to New York is comparable to the cost to ship subject WGJC from South America to New York, and that Delano enjoys a transportation cost advantage over subject imports when serving the California market.[115]

*** three of five responding importers reported that there were substitutes for WGJC.[116] Reported substitutes for WGJC include AJC, PJC, and other grape juice concentrates, which are used in juice blends, and high fructose corn syrup, which is used in other beverages.[117] *** some responding importers reported that changes in the price of substitutes

[111] Conference Tr. at 202-3 (Alarcón).
[112] CR/PR at Table II-2.
[113] CR/PR at II-2.
[114] CR/PR at II-2.
[115] CR/PR at II-2; Conference Tr. at 168-69 (Ruiz).
[116] CR/PR at II-9.
[117] CR/PR at II-9. Although it concedes that AJC and PJC are less expensive substitutes for WGJC, Delano maintains that WGJC cannot be used interchangeably with these other juice concentrates without reformulating the final product. Delano Postconference Br. at 14-15, 17, 20; Petitions at 15, 20.

have affected the price for WGJC.[118] *** reported that changes in the price of substitutes did not affect the price for WGJC but had affected the volume of WGJC sold in the U.S. market.[119]

WGJC is primarily produced-to-order.[120] U.S. producer Delano reported that *** percent of its commercial shipments were produced-to-order, with lead times averaging *** days, and that the remaining *** percent came from inventories, with lead times averaging *** days.[121] Responding importers reported that *** percent of their commercial shipments of subject imports were produced-to-order, with lead times averaging *** days, and that most of the remaining shipments were sold from foreign inventories, with lead times averaging *** days.[122]

The primary raw material used in the production of WGJC is crushed grapes.[123] Although Delano primarily sources grapes from members of its cooperative, known as "patrons," it also purchases grapes from outside growers that were originally grown for the wine, table grape, and raisins markets.[124] Delano and all four responding importers, including Cepas, reported that raw material prices have *** since January 1, 2019.[125] Delano reported that its members have increasingly replaced grape vines with other permanent crops, allegedly due to low-priced subject import competition, creating a scarcity of grapes that has led to higher prices. In particular, Delano claims that its raw material prices have increased as it has

[118] CR/PR at II-9.
[119] CR/PR at II-9.
[120] CR/PR at II-11.
[121] CR/PR at II-11.
[122] CR/PR at II-11.
[123] CR/PR at I-6, V-1.
[124] CR/PR at I-6, V-1, VI-1, VI-6-7.
[125] CR/PR at V-1; Conference Tr. at 38, 121-22 (Packer), 119-22 (Lord), 120 (Juday), 177-78 (Ruiz).

been forced to purchase increasing volumes of grapes from growers outside its cooperative, which command higher grape prices.[126]

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[127]

During the POI, the volume of subject imports declined from 6.6 million gallons in 2019 to 4.8 million gallons in 2020 and to 3.7 million gallons in 2021.[128] U.S. shipments of subject imports also declined from 6.5 million gallons in 2019 to 4.8 million gallons in 2020 and to 3.7 million gallons in 2021.[129] Subject imports as a share of apparent U.S. consumption declined from *** percent in 2019 to *** percent in 2020 and to *** percent in 2021.[130]

We find for purposes these preliminary determinations that the volume of subject imports is significant both in absolute terms and relative to apparent U.S. consumption.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

[126] CR/PR at V-1; Conference Tr. at 38, 121-22 (Packer), 119-22 (Lord), 120 (Juday). Contrary to this claim, Delano *** during the POI. CR/PR at Table VI-1.

[127] 19 U.S.C. § 1677(7)(C)(i).

[128] CR/PR at Table IV-2.

[129] CR/PR at Table IV-5.

[130] CR/PR at Table IV-2. As discussed above, the volume and market share of subject imports may be understated due to the limited questionnaire coverage of U.S. importers.

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[131]

As discussed in section VI.B.3 above, we find a moderate-to-high degree of substitutability between the domestic like product and subject imports and that price is an important factor in purchasing decisions, among other important factors.

The Commission collected quarterly pricing data from U.S. producers and importers for four pricing products.[132] Delano and eight importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[133] Pricing data reported by these firms accounted for *** of Delano's U.S. shipments of WGJC and *** reported U.S. shipments of subject imports from Argentina in 2021.[134]

These pricing data show that subject imports undersold the domestic like product in 24 out of 32 possible quarterly comparisons (75.0 percent), at margins ranging from *** percent

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[131] 19 U.S.C. § 1677(7)(C)(ii).

[132] CR/PR at V-4. The Commission collected pricing data on the following four pricing products:

Product 1.—Kosher organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 2.—Kosher non-organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 3.—Organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 4.— Conventional non-organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon polylined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

CR/PR at V-4.

[133] CR/PR at V-4.

[134] CR/PR at V-4 & n.9.

to *** percent, and quarters in which there was underselling accounted for *** percent of reported subject import sales volume (*** gallons of WGJC).[135] Subject imports oversold the domestic like product in the remaining eight quarterly comparisons (or 25.0 percent), at margins ranging from *** percent to *** percent, and quarters in which there was overselling accounted for *** percent of reported subject import sales volume (*** gallons of WGJC).[136]

We have also considered purchasers' responses to the Commission's lost sales and lost revenue survey. Of the five responding purchasers, four reported purchasing subject imports instead of the domestic like product, and three of the four reported that subject imports were priced lower than the domestic like product.[137] One of these responding purchasers also reported that price was a primary reason that it purchased *** gallons of subject imports instead of the domestic like product.[138]

Given the moderate-to-high degree of substitutability between the domestic like product and subject imports, the importance of price in purchasing decisions, and the foregoing record evidence regarding underselling and lost sales, we find that there has been significant price underselling by subject imports compared with the price of the domestic like product during the POI.

We next consider price trends. The domestic industry's prices increased for pricing products 2 and 4, which together accounted for the vast majority of the domestic industry's

[135] CR/PR at Tables V-3 – V-6, V-8.
[136] CR/PR at Tables V-3 – V-6, V-8.
[137] CR/PR at Table V-10.
[138] CR/PR at Table V-10.

reported sales of domestically produced WGJC.[139] In contrast, the domestic industry's prices decreased overall for pricing products 1 and 3.[140] Subject import prices decreased irregularly for pricing products 2 and 3 but increased overall for product 4, which accounted for a majority of reported subject import sales.[141] No responding purchaser reported that domestic producers lowered prices for the domestic like product to compete with subject imports.[142]

We have also considered whether subject imports prevented price increases for the domestic like product that otherwise would have occurred. In analyzing price suppression, the Commission normally considers whether the domestic industry's ratio of cost of goods sold ("COGS") to net sales increased over the POI, which would generally be consistent with a cost-price squeeze. Here, Delano's cooperative structure and the manner in which it tracks the value of the grapes provided by its member growers for accounting purposes presents a unique challenge to our normal analysis.[143] In particular, the manner in which Delano records the cost of grapes contributed by cooperative members appears to have distorted its COGS during the POI, as reflected by ***.[144] Although the raw material data present a nontraditional valuation

[139] CR/PR at Tables V-4, V-6, V-7.

[140] CR/PR at Tables V-3, V-5, V-7.

[141] CR/PR at Tables V-4 – V-7. There were no reported subject import sales of pricing product 1. *Id.* at Table V-3.

[142] CR/PR at V-16.

[143] CR/PR at VI-2. Delano *** grapes received from cooperative members ***. In other words, Delano ***. In Delano's operational structure as a cooperative, inventory is ***. This net realizable valuation is not the same as cost, and ***. CR/PR at VI-2.

[144] CR/PR at Table VI-1. In any final phase of these investigations, we intend to further examine the domestic industry's cost structure and the factors that domestic producers consider when determining the prices to set for WGJC, which is pertinent information for the Commission's analysis of whether subject imports prevented price increases that would otherwise have occurred. We invite the parties to provide comments on the draft questionnaires in any final phase of these investigations regarding how best to collect accurate information concerning the domestic industry's relevant costs, with a focus on entities that operate as agricultural cooperatives. To the extent that raw material costs (Continued…)

of COGS, they show that the domestic industry's ratio of COGS to net sales increased from *** percent in 2019 to *** percent in 2020 and to *** percent in 2021.[145] The general trend of these data is consistent with other evidence on the record indicating that the industry may have experienced a cost-price squeeze during the POI. Specifically, Delano officials stated at the conference that low-priced subject import competition prevented Delano from increasing its WGJC prices sufficiently to cover the increasing cost of grapes over the POI.[146] Moreover, both parties agree that the cost of grapes increased during the period.[147] In light of the foregoing evidence and the significant volume of low-priced subject imports in the U.S. market, for purposes of these preliminary determinations, we cannot conclude that subject imports did not suppress prices for the domestic like product to a significant degree.

In sum, based on the record of the preliminary phase of the investigations, we find that subject imports significantly undersold the domestic like product, and cannot conclude that subject imports did not suppress domestic producer prices to a significant degree. Accordingly, we cannot conclude that subject imports did not have significant price effects.

E. Impact of the Subject Imports[148]

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic

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may not be a key component in domestic producers' pricing considerations, we also invite parties to provide comments on the best method for evaluating price suppression in this industry.

[145] CR/PR at Table VI-1.

[146] Conference Tr. at 22 (Lord), 34-35 (Packer).

[147] CR/PR at V-1; Conference Tr. at 38, 121-22 (Packer), 119-22 (Lord), 120 (Juday), 177-78 (Ruiz).

[148] Commerce initiated the antidumping duty investigation on WGJC from Argentina based on an estimated dumping margin of 101.26 percent. *White Grape Juice Concentrate From Argentina: Initiation of Less-Than-Fair-Value Investigation*, 87 Fed. Reg. 24934 (Apr. 27, 2022); CR/PR at I-4.

factors which have a bearing on the state of the industry." These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debt, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[149]

The domestic industry's output indicators declined irregularly during the POI. Its capacity decreased from *** gallons in 2019 to *** gallons in 2020 and 2021.[150] Production initially decreased from *** gallons in 2019 to *** gallons in 2020 before increasing to *** gallons in 2021.[151] Accordingly, the domestic industry's capacity utilization initially decreased from *** percent in 2019 to *** percent in 2020 but subsequently increased to *** percent in 2021.[152]

Despite the domestic industry's declining production, the industry's employment was relatively flat, and other employment-related indicators fluctuated. The number of production related workers ("PRWs") was *** in 2019, *** in 2020, and *** in 2021.[153] Total hours worked were *** hours in 2019, *** hours in 2020, and *** in 2021.[154] Productivity initially decreased from *** gallons per hour in 2019 to *** gallons per hour in 2020 before increasing to ***

[149] 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

[150] CR/PR at Tables III-2, C-1.

[151] CR/PR at Tables III-2, C-1.

[152] CR/PR at Tables III-2, C-1.

[153] CR/PR at Tables III-6, C-1.

[154] CR/PR at Tables III-6, C-1.

gallons per hour in 2021.[155] Wages paid initially decreased from $*** in 2019 to $*** in 2020 before increasing to $*** in 2021.[156] Unit labor costs initially increased from *** per gallon in 2019 to *** per gallon in 2020 before decreasing to *** per gallon in 2021.[157]

The domestic industry's U.S. shipments increased from *** gallons in 2019 to *** gallons in 2020 and to *** gallons in 2021.[158] As the industry's U.S. shipments increased into a declining market, the industry's share of apparent U.S. consumption increased from 41.5 percent in 2019 to 49.0 percent in 2020 and to 58.5 percent in 2021.[159] Its end-of-period inventories decreased from *** gallons in 2019 to *** gallons in 2020 and to *** gallons in 2021.[160]

Although the record indicates that the domestic industry's financial performance declined during the POI, we recognize that our evaluation of the industry's profitability is complicated by Delano's cooperative structure, particularly the manner in which it accounts for grapes received from its grower members for processing into WGJC. Delano's declining financial performance directly resulted from ***.[161] Given ***, we consider Delano's reported

[155] CR/PR at Tables III-6, C-1.
[156] CR/PR at Tables III-6, C-1.
[157] CR/PR at Tables III-6, C-1.
[158] CR/PR at Tables III-4, C-1.
[159] CR/PR at Tables IV-4, C-1.
[160] CR/PR at Tables III-5, C-1.
[161] CR/PR at Table VI-1. Member contributions to COGS, estimated using the change in raw material inventories measured in net realizable value ("NRV"), increased from *** $*** in 2019 to *** $*** in 2020 and to $*** in 2021.[161] At the same time, the purchased cost of grapes from outside growers decreased from $*** in 2019 to $*** in 2020 and to $*** in 2021.[161] Accordingly, total estimated raw material costs were *** $*** in 2019, $*** in 2020, and $*** in 2021.[161]

financial performance with caution, and will consider ways to more accurately assess the domestic industry's performance in any final phase of the investigations.[162]

During the POI, the domestic industry's total net sales value increased from $*** in 2019 to $*** in 2020 and to $*** in 2021.[163] Its total reported COGS increased from $*** in 2019 to $*** in 2020 and to $*** in 2021, driven largely by ***.[164] As Delano's COGS increased faster than its net sales value, the industry's gross proceeds declined from $*** in 2019 to $*** in 2020 and to $*** in 2021.[165] Similarly, the industry's operating proceeds declined from $*** in 2019 (equivalent to 61.8 percent of net sales) to $*** in 2020 (equivalent to 52.8 percent of net sales) and to $*** in 2021 (equivalent to 35.8 percent of net sales).[166] Its net proceeds declined from $*** in 2019 to $*** in 2020 and to $*** in 2021.[167]

We have found that subject import volume was significant during the POI, as Argentina remained the largest supplier of imported WGJC, and that subject imports significantly undersold the domestic like product. Given the moderate-to-high degree of substitutability between the domestic like product and subject imports and the importance of price to purchasers, we are unable to conclude that the significant volume of low-priced subject imports

[162] We invite the parties to comment on ways the Commission may collect more accurate information on the domestic industry's financial performance in their comments on the draft questionnaires in any final phase of the investigations.

[163] CR/PR at Table VI-1.

[164] CR/PR at Table VI-1.

[165] CR/PR at Table VI-1. As a cooperative, Delano reports gross proceeds, operating proceeds, and net proceeds rather than gross profit, operating income, and net income. CR/PR at VI-2 & Table VI-1.

[166] CR/PR at Table VI-1.

[167] CR/PR at Table VI-1. Payments to members during the period of investigation were $*** in 2019, $*** in 2020, and $*** in 2021. *Id.* Net proceeds after payments were $*** in 2019, $*** in 2020, and $*** in 2021. *Id.*

did not have adverse price effects on the domestic industry. Consequently, we cannot conclude that the significant volume of low-priced subject imports did not cause the domestic industry to perform worse than it otherwise would have, or that the record as a whole contains clear and convincing evidence that there is no material injury by reason of subject imports.

We have also considered whether there are other factors that may have had an adverse impact on the domestic industry during the POI to ensure that we are not attributing injury from such other factors to subject imports. Although apparent U.S. consumption declined during the POI, the domestic industry was able to increase its U.S. shipments and market share during the period.[168] Nonsubject imports increased in terms of both volume and market share during the POI, but peaked at only *** percent of apparent U.S. consumption in 2021, which was significantly less than the subject imports' share of the market, and did not prevent the domestic industry from increasing its market share during the period.[169] As discussed above, the domestic industry's performance may have also been affected by decreased supplies of grapes, reportedly as growers replaced grape vines with more profitable crops, and the availability of substitute products such as AJC, PJC, and other grape juice concentrates.[170] In any final phase of these investigations, we intend to further investigate these other potential causes of injury to the domestic industry.[171]

[168] CR/PR at Tables IV-4, C-1. In any final phase of these investigations, we intend to explore whether the domestic industry's gains in market share may be linked to its pricing and any increase in its ratio of COGS to net sales.

[169] CR/PR at Table IV-4.

[170] Cepas Postconference Br. at 4-6, 8-9; Cepas Written Statement at 8.

[171] As previously noted, we also intend to further examine the domestic industry's cost structure and will strive to obtain more complete coverage with respect to subject imports and domestic production in any final phase of these investigations.

In sum, based on the record of the preliminary phase of these investigations, we cannot conclude that subject imports did not have a significant impact on the domestic industry.

VII. Conclusion

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of WGJC from Argentina that are allegedly sold in the United States at less than fair value and imports of WGJC from Argentina that are allegedly subsidized by the government of Argentina.

Part I: Introduction

Background

These investigations result from petitions filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Delano Growers Grape Products, LLC ("Delano"), Delano, California, on March 31, 2022, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of white grape juice concentrate ("WGJC")[1] from Argentina. Table I-1 presents information relating to the background of these investigations.[2] [3]

Table I-1
WGJC: Information relating to the background and schedule of this proceeding

Effective date	Action
March 31, 2022	Petitions filed with Commerce and the Commission; institution of Commission investigations (87 FR 20458, April 7, 2022)
April 20, 2022	Commerce's notice of initiation of its LTFV investigation (87 FR 24934, April 27, 2022) and countervailing duty investigation (87 FR 24945, April 27, 2022)
April 21, 2022	Commission's conference
May 13, 2022	Commission's vote
May 16, 2022	Commission's determinations
May 23, 2022	Commission's views

Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . .*

[1] See the section entitled "The subject merchandise" in Part I of this report for a complete description of the merchandise subject in this proceeding.

[2] Pertinent Federal Register notices are referenced in appendix A, and may be found at the Commission's website (www.usitc.gov).

[3] A list of witnesses who appeared at the conference is presented in appendix B of this report.

may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--[4]

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.. . .In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—[5]

(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.

[4] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.
[5] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

Organization of report

Part I of this report presents information on the subject merchandise, alleged subsidy/dumping margins, and domestic like product. Part II of this report presents information on conditions of competition and other relevant economic factors. Part III presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. Parts IV and V present the volume of subject imports and pricing of domestic and imported products, respectively. Part VI presents information on the financial experience of U.S. producers. Part VII presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

Market summary

WGJC is generally used as an ingredient in beverages, foods, and other edible products such as oral medications. The leading U.S. producer of WGJC is Delano, while leading producers of WGJC outside the United States include Fecovita Coop. LTDA ("Fecovita") and Cepas Argentinas S.A. ("Cepas") of Argentina. The leading U.S. importers of WGJC from Argentina are ***. Leading importers of WGJC from nonsubject countries (primarily Spain and Chile) include ***. U.S. purchasers of WGJC are firms that purchase WGJC for the inclusion in various downstream applications; leading purchasers include ***.

Apparent U.S. consumption of WGJC totaled approximately *** gallons ($***) in 2021. Currently, one firm, Delano, is known to produce WGJC in the United States.[6] Its U.S. shipments of WGJC totaled *** gallons ($***) in 2021, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from subject sources totaled 3.7 million gallons ($33.1 million) in 2021 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from nonsubject sources totaled *** gallons ($***) in 2021 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

[6] Delano identified other U.S. producers that may produce WGJC for commercial sale and/or internal consumption, however no other firm submitted a response to the U.S. producer's questionnaire. See Part III for a discussion of U.S. producers.

Summary data and data sources

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire response of the petitioner, Delano, which accounted for approximately 85.0 percent of U.S. production of WGJC during 2021.[7] U.S. imports are based on the questionnaire responses of seven firms that accounted for approximately 46.5 percent of the value of U.S. imports from Argentina in 2021 under HTS subheading 2009.69.00, a "basket" category.[8] Foreign industry data are based on the questionnaire responses of six firms that accounted for approximately *** percent of U.S. imports from Argentina in 2021 under HTS subheading 2009.69.00, a "basket" category.[9]

Previous and related investigations

There have been no prior or related investigations of WGJC.

Nature and extent of alleged subsidies and sales at LTFV

Alleged subsidies

On April 27, 2022, Commerce published a notice in the Federal Register of the initiation of its countervailing duty investigation on WGJC from Argentina.[10]

Alleged sales at LTFV

On April 27, 2022, Commerce published a notice in the Federal Register of the initiation of its antidumping duty investigation on WGJC from Argentina, and has initiated an antidumping duty investigation based on estimated dumping margin of 101.26 percent.[11]

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[7] Petition, p. 5.

[8] See Part IV for additional information on coverage of U.S. imports.

[9] The coverage figure shown above for foreign producers is likely understated. See Part VII for additional information on coverage of foreign industry data

[10] The petitioner identified two subsidy programs that fall under an alleged grape diversion program. Petition, pp. 50-56. Commerce initiated on only one of the two subsidy programs, "The Government of Argentina Provides Goods or Services in the Form of Must Production and Sale at Less Than Adequate Remuneration (LTAR)". For further information on the alleged subsidy programs see Commerce's notice of initiation and related CVD Initiation Checklist. 87 FR 24945, April 27, 2022.

[11] 87 FR 24934, April 27, 2022.

The subject merchandise

Commerce's scope

In the current proceeding, Commerce has defined the scope as follows:[12]

> *{W}hite grape juice concentrate with a Brix level of 65 to 68, whether in frozen or non-frozen forms. White grape juice concentrate is concentrated grape juice produced from grapes of the Vitis vinifera L. species with a white flesh, including fresh market table grapes and raisin grapes (e.g., Thompson Seedless), as well as several varietals of wine grapes (e.g., Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, etc.). The scope of this investigation covers white grape juice concentrate regardless of whether it has been certified as kosher, organic, or organic kosher. The white grape juice concentrate subject to this investigation consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included.*
>
> *The scope does not cover white grape juice concentrate produced from grapes of the Vitis labrusca species (e.g., Niagara).*

Tariff treatment

Based upon the scope set forth by Commerce, information available to the Commission indicates that the merchandise subject to these investigations are imported under the following provisions of the Harmonized Tariff Schedule of the United States ("HTS"):

- 2009.69.00.40 - Grape juice (including grape must), of a Brix value exceeding 30: Frozen
- 2009.69.00.60 - Grape juice (including grape must), of a Brix value exceeding 30: Not frozen

The 2022 general rate of duty for HTS subheading 2009.69.00 is 4.4 cents per liter. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

[12] 87 FR 24934, April 27, 2022.

The product

Description and applications

WGJC is 100 percent concentrated grape juice, made from fresh grapes. The subject product may be made from grape varieties that are grown primarily for use as wine grapes, table grapes (i.e., fresh consumption), or raisins. In California, the supply of grapes to produce WGJC may come from growers who produce grapes specifically for the concentrate market (sometimes under contract with WGJC processors), or from supplies of grapes that were originally grown for the table grape, raisin, or wine market.[13] Overall supply of grapes for concentrate production in California generally declined over the period, as shown in table I-1. The estimate of white grapes crushed for concentrate production is calculated as all grapes crushed for concentrate production, minus rubired grapes purchased for beverage production.[14]

Table I-1
WGJC: Quantity of California grapes crushed for concentrate production, rubired grapes purchased for beverage production, and estimated white grapes crushed for concentrate production, by period

Quantity in short tons

Item	2019	2020	2021
All grapes crushed for concentrate production	***	***	***
Rubired grapes purchased for beverage production	***	***	***
Estimated white grapes crushed for concentrate production	***	***	***

Source: USDA California grape crush reports (2019 and 2021).

In Argentina, supplies of grapes largely come from wine grape growers.[15] In both countries, processors concentrate the grape juice to remove water and provide a specific sugar content desirable to buyers. The sugar content of the subject product is a Brix level of 65 to 68.[16] Concentrate in this range provides the sweetening properties that buyers need while also

[13] Conference transcript, p. 58 (Packer); Paggi and Yamazaki, *An Analysis of the Grape Juice Concentrate Industry*, August 2007, p. 18.

[14] Rubired is a red grape variety commonly used to produce red grape juice concentrate in California.

[15] Paggi and Yamazaki, *An Analysis of the Grape Juice Concentrate Industry*, August 2007, p. 9.

[16] Brix level is a measurement of sweetness based on pure sucrose content in water. By this measure, 1 degree Brix is equivalent to 1 gram of sucrose per 100 grams of solution.

ensuring that the liquid is not too thick (as it would be if the Brix level exceeded 68).[17] Neutral flavor and color are desired product characteristics.[18]

WGJC is used as an ingredient in beverages, foods, and other edible products such as oral medications. For example, it may be blended with other fruit juices in juice blends, or it may serve as an ingredient in baked goods, jams, or jellies.[19] Because of its neutral color and flavor, its primary purpose in these applications is as an extender in juice blends and as a natural sweetener in the other applications.[20]

An additional application for the product is its uses in winemaking, which are numerous.[21] Some wineries produce WGJC internally, as an input into the winemaking process, and WGJC processors sell some of their product to wineries that do not have enough supply from their own operations. The general manager of Delano estimated at the staff conference that the company's end markets for WGJC are approximately 60 percent to juice blends, 20 percent to wineries, 15 percent to ingredient use in products such as jams and jellies, and 5 percent to bakeries.[22]

For the Argentinian industry, Cepas Argentina indicated that the market segments are broadly the same, but that an even higher share goes into juice blends.[23]

Consistent with the end markets described above, the major purchasers of WGJC are food and beverage manufacturers. Domestic buyers reportedly prefer 68 Brix WGJC, whereas 65 Brix is more common in European markers and for some specialty applications.[24] Some buyers may require WGJC that is certified organic, kosher, or both organic and kosher. The general manager of Delano stated that the company produces 15 percent kosher WGJC, 1 to 1.5 percent organic kosher WGJC, and the remainder is conventional; the company does not produce non-kosher organic WGJC.[25] The process of switching between conventional, organic, and kosher production involves thoroughly cleaning the manufacturing equipment to remove

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[17] Conference transcript, p. 75 (Packer).

[18] Petition, p. 12.

[19] Conference transcript, p. 140 (Lord).

[20] Paggi and Yamazaki, *An Analysis of the Grape Juice Concentrate Industry*, August 2007, p. 3.

[21] According to one grape juice concentrate producer serving the winery market, "Winemakers use varietal grape concentrates before or during fermentation to increase final alcohol content, post-fermentation to raise residual sugar levels, and just before bottling to stabilize color." (California Concentrate Company webpage, "Varietal Grape Concentrate," http://www.californiaconcentrate.com/Products/Varietal-Grape-Concentrates, retrieved May 4, 2022.

[22] Conference transcript, p. 140 (Lord).

[23] Conference transcript, p. 228 (Ruiz).

[24] Conference transcript, p. 74 (Lord).

[25] Conference transcript, p. 107 (Lord).

traces of the conventional product and, in the case of kosher production, bringing in a rabbi to supervise the production process. In California, there are no other differences in the production process between the different types.[26]

Representatives of the Argentinian industry stated that it produces organic WGJC but does not produce any substantial volume of kosher WGJC due to differences in the manufacturing process in Argentina, which are described below.[27]

Manufacturing processes

The general manufacturing process used by the industry in California to produce WGJC involves several steps. Crushing of grapes to produce WGJC in California is highly seasonal and generally runs from August to December or January.[28] Once the crush season is over in January, the production equipment is often taken apart to perform maintenance and prepare for the next crush the following August.[29] Upon arrival at the processing facility, harvested grapes are dumped into a hopper, which then flows into "a rotary stemmer-crusher that separates the fruit from the stem."[30] After that, a de-juicer removes 30 to 35 percent of the grapes' juice, which flows through a screen. The remaining pulp empties into a continuous screw press to extract more juice. The juices from these two steps are then combined.[31] At that stage, the soluble solids are "removed by rotary vacuum filtration, pressure leaf filtration, or centrifugation."[32] The juice is then moved to a concentrating column, where heat and pressure reduce its water content. This concentrates the grape juice to a sweetness level of 65 to 68 Brix, which is the "optimal Brix level for pumping the liquid out of the concentrator, {as} a higher Brix level is not efficiently transferred to the next steps and a lower Brix level is not sweet enough for end users."[33] If the WGJC is going to be stored for longer periods, which is often done to smooth supply throughout the year, it is put into refrigerated storage after the evaporation step; this intermediate product is known as "crude concentrate."[34] To move from crude concentrate to a finished product, the product is reconstituted and additional filtration is used

[26] Conference transcript, p. 77 (Lord).
[27] Conference transcript, p. 203 (Alarcón) and p. 231 (Alarcón).
[28] Conference transcript, p. 116 (Lord).
[29] Email from Rick Lord, Delano Growers, May 6, 2022.
[30] Petition, p. 12.
[31] Grape juice that has not been filtered or concentrated is referred to as grape must, as described in greater detail in the paragraph on Argentina's manufacturing process.
[32] Petition, p. 12.
[33] Petition, p. 13.
[34] Conference transcript, p. 46 (Lord).

to adjust color and pH level before the juice is re-evaporated.[35] According to the petitioner, "The hue of the color of WGJC may vary slightly depending on the requirements of the end-user, but generally is amber to water white."[36] Juice that is held in storage may develop a darker color, so for buyers that prefer a lighter colored product, processors can add powdered activated carbon to absorb the color and then filter it out before the final evaporation step.[37]

There are some differences in the manufacturing process used in Argentina, owing to the WGJC industry's connection to wine production in that country. In Argentina, most grapes for concentrate are crushed between February and April, which is autumn in the Southern Hemisphere.[38] While there is some production of concentrate from fresh grape juice (similar to the process used in California), much of the input for Argentina's WGJC production is sulfated grape must, rather than fresh grape juice. Sulfated grape must is freshly crushed, unfiltered grape juice to which sulfites are added, which preserves the juice longer, prevents fermentation, and avoids the need for it to be refrigerated.[39] This allows the industry in Argentina to produce and ship WGJC year-round.[40] The sulfites are later removed during the WGJC production process, to a level no greater than 50 ppm.[41] According to an Argentinian industry representative, WGJC that is produced without using sulfites is known as "virgin juice," and is preferred by buyers in some markets, such as in Japan.[42] Kosher WGJC production also reportedly cannot use sulfated must, eliminating the possibility of kosher production for processors that use this input.[43]

[35] Conference transcript, p. 46 (Lord); petition, p. 13.
[36] Petition, p. 13.
[37] Conference transcript, p. 142 (Lord).
[38] Conference transcript, p. 117 (Lord).
[39] Paggi and Yamazaki, *An Analysis of the Grape Juice Concentrate Industry*, August 2007, p. 9; conference transcript, p. 192 (Martinez).
[40] Conference transcript, p. 224 (Alarcón).
[41] Conference transcript, p. 193 (Alarcón).
[42] Conference transcript, p. 193 (Alarcón).
[43] Conference transcript, p. 203 (Alarcón).

Domestic like product issues

No issues with respect to domestic like product have been raised in this phase of these investigations. The petitioner proposes a single domestic like product, arguing that domestic and subject WGJC are similar in physical appearance, they are interchangeable products in most circumstances, they have similar channels of distribution, most customers perceive them to be a similar product, the manufacturing process is similar, and the employees must have the same types of skills to operate the machinery.[44] Respondents did not address domestic like product.

[44] Petitioner's postconference brief, p. 6.

Part II: Conditions of competition in the U.S. market

U.S. market characteristics

WGJC is white grape juice from which water and other unwanted content is extracted through filtering, evaporating, and pasteurizing. Sometimes additional additives will be included like sulfites added to Argentine WGJC to avoid the need of fermentation or refrigeration. WGJC may be in frozen or liquid form. Removing the water content from juice can decrease transportation cost and decreases the ability for its content to spoil. WGJC is known for its neutral color and flavor relative to other fruit juice concentrates. WGJC is also differentiated by if it is kosher, organic, or conventional.[1] Sulfites in much of Argentine WGJC exclude it from being consider kosher or kosher organic, but they still maintain sizable sells in WGJC organic products. WGJC is often used in juices, juice blends, and as a sweetener.[2]

WGJC is produced from grapes that do not meet the grade for their originally intended markets (wine, table grapes, raisins, etc.).[3] Less expensive grapes typically are used in processing, and Argentine grapes are noted to be a less expensive native variety (referred to as pink, criolla, or cherry grapes) than those used by U.S. producers.[4]

No firms reported changes in the product mix or marketing for WGJC since January 1, 2019.

Apparent U.S. consumption of WGJC decreased in terms of quantity and increased in terms of value since January 2019. Overall, apparent U.S. consumption in 2021 was *** percent lower in terms of quantity and *** percent higher in terms of value than in 2019. Apparent U.S. consumption was *** percent lower in terms of quantity in 2021 compared with 2020 but was *** percent higher in terms of value.

Channels of distribution

U.S. producers and importers sold WGJC mainly to food and drink manufacturers, as shown in table II-1. *** of the U.S. producer's sales and more than *** percent of subject import sales were to food and drink manufacturers during 2019-21.

[1] Conference transcript, p. 203 (Alarcón).
[2] As noted in Part I.
[3] Petition, p. 11.
[4] Respondent CEPAS Argentina S.A. conference presentation slides, p. 23.

Table II-1
WGJC: Share of U.S. shipments by source, channel of distribution, and period

Shares in percent

Source	Channel	2019	2020	2021
United States	Distributors or brokers	***	***	***
United States	Food and drink manufacturers	***	***	***
United States	Other end users	***	***	***
Argentina	Distributors or brokers	***	***	***
Argentina	Food and drink manufacturers	***	***	***
Argentina	Other end users	***	***	***
Nonsubject	Distributors or brokers	***	***	***
Nonsubject	Food and drink manufacturers	***	***	***
Nonsubject	Other end users	***	***	***
All imports	Distributors or brokers	***	***	***
All imports	Food and drink manufacturers	***	***	***
All imports	Other end users	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Geographic distribution

U.S. producers and subject importers reported selling WGJC to all regions in the contiguous United States (table II-2), with most importers reporting shipments to the Northeast, Southeast, and Pacific Coast. For U.S. producers, *** percent of sales were within 100 miles of their production facility, *** percent were between 101 and 1,000 miles, and *** percent were over 1,000 miles. Subject importers sold *** percent within 100 miles of their U.S. point of shipment, *** percent between 101 and 1,000 miles, and *** percent over 1,000 miles.

Argentinian producers noted logistical difficulties and prohibitive shipping costs to California with only 12.9 percent of Argentine imports of WGJC in 2019 to 2021 shipped to California. In contrast, 76.1 percent of Argentine imports went to the east coast during the same period.[5] Respondents noted that the cost to ship from California to New York was as high as ocean transportation from South American ports to New York.[6]

[5] Respondent Grupos Cepas conference presentation slides, p. 9.
[6] Conference transcript, pp. 168-169.

Table II-2
WGJC: Count of U.S. producers' and U.S. importers' geographic markets

Region	U.S. producers	Argentina
Northeast	***	6
Midwest	***	3
Southeast	***	7
Central Southwest	***	3
Mountains	***	2
Pacific Coast	***	6
Other	0	1
All regions (except Other)	***	0
Reporting firms	***	8

Source: Compiled from data submitted in response to Commission questionnaires.
Note: Other U.S. markets include AK, HI, PR, and VI.

Supply and demand considerations

U.S. supply

Table II-3 provides a summary of the supply factors regarding WGJC from U.S. producers and from Argentina.

WGJC production relies on the supply of grape vines to produce enough table, raisin, and wine grapes for Argentine product[7], to produce crushed grapes to process into WGJC. Petitioner noted Delano typically keeps inventory on hand for 18-month periods in a normal production cycle, into following years' crush seasons, unlike Argentine producers. This difference could lead to naturally higher inventory rates for domestic producers.[8] The Argentine producers' inventories rarely are held longer than a few months into the following season.[9] Petitioner Delano stated that the limiting factor for production capacity is the number of grape vines of grape growers in their cooperative. Respondents stated that the production capacity for Argentine producers is limited by the facilities and equipment used to process the grapes.[10] Argentine respondent Cepas noted that weather seemingly has a greater impact on the price of WGJC than grape crop size and WGJC produced in Argentina.[11] U.S. producer Delano notes they do not have adequate capacity to supply U.S. demand for WGJC.[12]

[7] Respondent CEPAS Argentina S.A. conference presentation slides, p. 13.
[8] Conference transcript, pp. 102-103 (Lord).
[9] Conference transcript, p. 218 (Alarcón).
[10] Conference transcript, pp. 220-221 (Dileva, Martinez, and Ruiz).
[11] Cepas's postconference brief, p. 15.
[12] Conference transcript, p. 100 (Packer).

Table II-3
WGJC: Supply factors that affect the ability to increase shipments to the U.S. market, by country

Quantity in gallons; ratio and share in percent

Factor	Measure	United States	Argentina
Capacity 2019	Quantity	***	***
Capacity 2021	Quantity	***	***
Capacity utilization 2019	Ratio	***	***
Capacity utilization 2021	Ratio	***	***
Ending inventories 2019	Ratio	***	***
Ending inventories 2021	Ratio	***	***
Home market 2021	Ratio	***	***
Non-US export markets 2021	Ratio	***	***
Ability to shift production	Count	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Responding U.S. producers accounted for approximately 85 percent of U.S. production of WGJC in 2021. Responding foreign producer/exporter firms accounted for *** percent of U.S. imports from Argentina in 2021 under HTS subheading 2009.69.00.. For additional data on the number of responding firms and their share of U.S. production and of U.S. imports from each subject country, please refer to Part I, "Summary Data and Data Sources." The 2019 capacity utilization was *** and modified by staff to account for production carryover. Please see Part III for further details.

Domestic production

Based on available information, U.S. producers of WGJC have the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of U.S.-produced WGJC to the U.S. market. The main contributing factor to this degree of responsiveness of supply is the availability of unused capacity or inventories. Factors mitigating responsiveness of supply include an inability to shift shipments from alternate markets, and an inability to shift production to or from alternate products.

The responding U.S. producer reported decreasing levels of production capacity and decreased production, leading to decreased capacity utilization from 2019 to 2021. U.S. producer Delano stated that their cooperative farmers are uprooting grape vines for other plants, which limits its ability to produce more WGJC. [13] It also noted that its current capacity cannot currently meet U.S. demand. Currently almost all U.S.-produced WGJC is for U.S. consumption.[14] Delano generally maintains inventories for 18 months as a part of their production cycle, and it is common practice to sell WGJC into future seasons[15] While inventories ***. Although using similar processes for production and equipment, WGJC producers are unable to easily shift to wine production due to differing equipment and processing needs.[16]

Subject imports from Argentina

Based on available information, producers of WGJC from Argentina have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of WGJC to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity, the ability to shift shipments from alternate markets, and some inventories. Factors mitigating responsiveness of supply is the limited ability to shift production to or from alternate products.

Argentine producers reported no change in production capacity and decreased production, leading to decreased capacity utilization from 2019 to 2021. Argentine producers' inventories relative to total shipments increased from 2019 to 2021. Argentine producers reported selling *** percent of their shipments in their home market, *** to export markets outside of the United States, and *** percent to the U.S. market in 2021. This relatively large share of non-U.S. exports shows that a large amount of WGJC could be diverted from other foreign markets. Argentine producers, however, noted an inability to shift production from and to other products.[17] *** noted trade barriers in cost prohibitive logistical cost shipping to some parts of the western United States[18] and barriers in trade of unknown

[13] Conference transcript, p. 100 (Packer).
[14] Conference transcript, p. 100 (Packer).
[15] Conference transcript, pp. 102-103 (Lord)
[16] Conference transcript, p 103 (Lord).
[17] Conference transcript, p. 100 (Ruiz).
[18] Respondent Grupos Cepas conference presentation slides, p. 9.

proportion of end users that require domestic made product due to USDA and USMCA requirements that could limit the ability to shift more exports to the U.S. markets.[19]

Imports from nonsubject sources

Nonsubject imports accounted for 31.3 percent of total U.S. imports in 2021. The largest sources of nonsubject imports during January 2019-December 2021 were Spain and Chile. Combined, these countries accounted for 73.7 percent of nonsubject imports in 2021.[20]

Supply constraints

*** six of the seven responding importers reported that they had experienced supply constraints since January 1, 2019. U.S. producer Delano reported that ***. Importers reported that delays in shipping and other supply chain issues due to the COVID-19 pandemic had caused supply constraints. Importer *** reported that logistics constraints led it to decline additional orders, to be unable to deliver on time, and to be unable to deliver volumes requested by the customer. Importer *** reported that during 2021 and continuing into the present, port congestion and lack of export containers during the COVID-19 pandemic severely affected its global operations and ability to ship WGJC to the U.S. market. In addition, it reported natural gas restrictions and declining raw material supplies added to supply constraint issues.[21] Importer *** reported that it moved some contracts between Argentina and *** because of issues with production slowdowns and on-time deliveries.

U.S. demand

Based on available information, the overall demand for WGJC is likely to experience moderate changes in response to changes in price. The main contributing factors are the ability to substitute other products for WGJC in most of its end-use products where its specific flavor profile and colorless traits are not required.[22]

[19] Conference transcript, pp. 167-168 (Ruiz)
[20] Based on official statistics.
[21] ***.
[22] Conference transcript, p. 100 (Ruiz).

End uses and cost share

U.S. demand for WGJC depends on the demand for U.S.-produced downstream products. Reported end uses include beverages including juice blends, juice ingredients, and wines, and other health and wellness products. ***.[23]

WGJC accounts for a varying cost of the end-use product in which it is used depending on the amount of WGJC used in the end-use product. ***. Importers reported that WGJC accounts for between 8 and 70 percent of the cost of end-use products. Importer *** reported that WGJC accounts for 8 percent of the cost of juices and 19 percent of the cost of wines, and importer *** reported that WGJC accounts for 30 percent of the cost of health and wellness products and 70 percent of the cost of beverages.

Business cycles

U.S. producer Delano reported that the U.S. market for WGJC *** subject to business cycles or other distinct conditions of competition. Five of seven responding importers reported that the market was subject to business cycles. Despite the seasonality of grape growing, WGJC is typically available year-round, and WGJC can be stored into future seasons. Grape harvesting and crushing largely occurs August to December in the United States, and from January to July for Argentina.[24] Importers reported that the WGJC market is tied to the agricultural production of white grapes. Importer *** reported that the global production of white grapes and the size of each year's harvest has an impact on the WGJC market. Importer *** reported the WGJC market was subject to growing seasons and crop cycles. Importer *** reported that the Argentinian grape harvest occurs in March-April of each year, and this is when the prices in the WGJC market are set for the coming year. Importer *** reported that the size and quality of the Argentine grape harvest and the level of demand from the Argentine wine industry had a considerable influence of the market. It also reported that in years of high demand from the Argentine wine industry and low volume harvest, grapes are diverted from WGJC production to wine production. Importer *** reported that business cycles are affected by crop size in producing regions such as Argentina, Spain, Italy, and South Africa, that the availability of WGJC raw materials is often a

[23] Email to USITC staff from ***.

[24] Conference transcript, pp. 116-117 (Lord).

function of the wine and raisin markets, and that there has been a reduction in Thompson Seedless acreage in favor of other products.

One importer reported distinct conditions of competition; it reported that apple and pear juice concentrates, and to a lesser extent other juice concentrate, are substitutes for WGJC and have competitive pricing.

Demand trends

U.S. producer Delano reported that U.S. demand for WGJC had *** since January 1, 2019 (table II-4). A plurality of importers reported that U.S. and foreign demand for WGJC fluctuated. Importer *** reported that U.S. demand had decreased due to changes in consumption, and apple juice concentrate and WGJC from Spain entering the market at low prices. Importer *** reported that U.S. consumption had decreased due to increases in the price of WGJC and supply chain issues. Importer *** reported that U.S. demand for WGJC increased due to changes in consumption habits due to the pandemic.

U.S. producer Delano reported that foreign demand for WGJC had *** since January 1, 2019. Importer responses on overall changes to foreign demand for WGJC were mixed. No importers provided explanations for their responses.

Table II-4
WGJC: Count of firms' responses regarding overall domestic and foreign demand, by firm type

Market	Firm type	Increase	No change	Decrease	Fluctuate
Domestic demand	U.S. producers	***	***	***	***
Domestic demand	Importers	1	1	2	3
Foreign demand	U.S. producers	***	***	***	***
Foreign demand	Importers	1	1	1	2

Source: Compiled from data submitted in response to Commission questionnaires.

Substitute products

*** three of five responding importers reported that there were substitutes for WGJC. Reported substitutes for WGJC include concentrates of apple juice, pear juice, and other grape juice, which are used in juice blends and high fructose corn syrup, which is used in other beverages.

*** importers *** and *** reported that changes in the price of substitutes have affected the price for WGJC. *** stated that substitutability depends on the end use product and price and provided an example of apple juice concentrate being substituted for WGJC noting imports of this substitute from China caused WGJC prices to increase as WGJC is more expensive. Importer *** reported that changes in the price of substitutes has not affected the price for WGJC but that such changes had affected the volume of WGJC sold.

Substitutability issues

This section assesses the degree to which U.S.-produced WGJC and imports of WGJC from Argentina can be substituted for one another by examining the importance of certain purchasing factors and the comparability of WGJC from domestic and imported sources based on those factors. Based on available data, staff believes that there is a moderate-to-high degree of substitutability between domestically produced WGJC and WGJC imported from subject sources.[25] Factors contributing to this level of substitutability include similar quality, availability, similarities between domestically produced WGJC and WGJC imported from Argentina across multiple purchase factors, interchangeability between domestic and subject WGJC, and limited significant factors other than price. Factors reducing substitutability include domestic content requirements for a portion of the market.

Factors affecting purchasing decisions

Most important purchase factors

Purchasers responding to lost sales lost revenue allegations[26] were asked to identify the main purchasing factors their firm considered in their purchasing decisions for WGJC. The major purchasing factors identified by firms include price, quality, and availability (table II-5). The most often cited top factors firm consider in their purchasing decisions for WGJC were price (4 firms) and availability (4 firms). Quality was the most frequently cited first-most important factor by 3 firms, availability was most frequently cited second by 3 firms, and price was most frequently cited third by 3 firms.

[25] The degree of substitution between domestic and imported WGJC depends upon the extent of product differentiation between the domestic and imported products and reflects how easily purchasers can switch from domestically produced WGJC to the WGJC imported from the subject country (or vice versa) when prices change. The degree of substitution may include such factors as relative prices (discounts/rebates), quality differences (e.g., grade standards, defect rates, etc.), and differences in sales conditions (e.g., lead times between order and delivery dates, reliability of supply, product services, etc.).

[26] This information is compiled from responses by purchasers identified by Petitioners to the lost sales lost revenue allegations, as well as responses submitted by other purchasers identified by staff. See Part V for additional information.

Table II-5
WGJC: Count of ranking of factors used in purchasing decisions as reported by purchasers, by factor

Factor	First	Second	Third	Total
Availability / Supply	0	3	2	4
Price / Cost	0	1	3	4
Quality	3	0	0	3
All other factors	2	1	0	NA

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Other factors include certifications, specifications, and bulk shipping.

Domestic requirements

There are multiple requirements for U.S.-produced grapes and/or WGJC in production of end use products that need to meet USDA and USMCA guidelines. The USDA domestic requirement indicates all fruit, vegetable, and nut inputs need to be grown in the United States. The USMCA requires most ingredients be from the United States in order to qualify for the free trade agreement for U.S. exports to Canada or Mexico, so end users may require U.S.-produced WGJC as an input.[27]

Lead times

WGJC is primarily produced-to-order. U.S. producer Delano reported that *** percent of its commercial shipments were produced-to-order, with lead times averaging *** days. The remaining *** percent of its commercial shipments came from inventories, with lead times averaging *** days. Subject importers reported that *** percent of their commercial shipments were produced-to-order, with average lead times of *** days and that most of the remaining shipments were sold from foreign inventories, with average lead times of *** days.

[27] Conference transcript, pp. 167-168 (Ruiz)

Comparison of U.S.-produced and imported WGJC

In order to determine whether U.S.-produced WGJC can generally be used in the same applications as imports from Argentina, the U.S. producer and importers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in tables II-6 to II-7, the U.S. producer reported that WGJC from the United States, Argentina, and nonsubject countries are *** interchangeable, while four of seven importers reported they are frequently interchangeable. Importer ***, which reported U.S. and Argentine product were sometimes interchangeable, stated that interchangeability depends on the origin listed on customer final product and that some people prefer flavor of one origin over other, but U.S. and Argentine WGJC can be interchangeable sometimes as well. U.S. importer ***, which reported U.S. and Argentine product were frequently interchangeable, noted Argentina or Spanish WGJC cannot replace the U.S. origin WGJC or compete with domestic juice for some uses including domestic requirements. Importer *** reported that WGJC from each source is sometimes interchangeable, and that domestic WGJC "get{s} preferential treatment by U.S. purchasers of WGJC because of the USDA commodity specifications for bottled juices." It added that USMCA requirements also limit the ability of end users to purchase WGJC from Argentina and other countries.

Table II-6
WGJC: Count of U.S. producers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. Argentina	***	***	***	***
U.S. vs. Other	***	***	***	***
Argentina vs. Other	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-7
WGJC: Count of importers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
United States vs. Argentina	0	4	2	0
United States vs. Other	0	4	3	0
Argentina vs. Other	1	3	3	0

Source: Compiled from data submitted in response to Commission questionnaires.

In addition, the U.S. producer and importers were asked to assess how often differences other than price were significant in sales of WGJC from the United States, subject, or nonsubject countries. As seen in tables II-8 to II-9, U.S. producer Delano reported that

differences in non-price factors were *** significant in its sales while importers' answers were mixed, with three reporting that differences in such factors between domestic and imported product were always or frequently important, two reporting that they were sometimes important, and one reporting that they were never important in their sales. The U.S. producer reported there were *** significant factors other than price between Argentina and nonsubject WGJC, while four of seven importers reported that factors other than price were always or frequently significant.

Table II-8
WGJC: Count of U.S. producers reporting the significance of differences other than price between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. Argentina	***	***	***	***
U.S. vs. Other	***	***	***	***
Argentina vs. Other	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-9
WGJC: Count of importers reporting the significance of differences between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. Argentina	2	1	2	1
U.S. vs. Other	2	1	3	1
Argentina vs. Other	2	2	2	1

Source: Compiled from data submitted in response to Commission questionnaires.

Importer *** noted availability, guaranteed quality, and transportation network are very important as customers cannot halt their production lines. Importer *** noted sometimes there is more flexibility on quality/specification and packaging from other origins than U.S. product. Importer *** noted their understanding is that Argentina or Spanish WGJC cannot replace or directly compete with U.S. WGJC due to domestic WGJC uses in compliance with NAFTA (i.e. USMCA) regulations on domestic source requirements. Additionally, *** stated U.S. producers have shorter lead times, which was of particular relevance during the pandemic timeframe given global logistics and supply chain constraints. U.S. producers also have significant lower shipment costs which gives them strong competitive advantages against imported WGJC. *** also referenced the USITC database, noting the total imports of WGJC into the United States was stable between 2019 and 2021. Also noting during the same period Argentina's white grape juice concentrate decreased 10 percent per year, the volume was replaced by Spanish juice, and Chinese apple juice concentrate imports increased at 18 percent per year. Importer *** stated that WGJC from Argentina "offsets the unavailability of domestic production during certain seasons," that freight from the West Coast to the East Coast has been a significant issue for domestic production over the past two years and has impacted the availability of domestic product, and that quality (i.e., sulphur dioxide, acidity, and color) is also occasionally an issue with domestic WGJC.

Part III: U.S. producers' production, shipments, and employment

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in Part I of this report and information on the volume and pricing of imports of the subject merchandise is presented in Part IV and Part V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of one firm that accounted for the vast majority of U.S. production of WGJC during 2021.

U.S. producers

The Commission issued a U.S. producer questionnaire to ten firms based on information contained in the petition.[1] [2] Delano, the petitioner, provided usable data on its operations. Staff believes that these responses represent the *** percent of U.S. production of WGJC for

[1] Seven of the nine companies identified in the petition (not including Delano) are wine producers believed to produce WGJC for internal consumption only: these companies are E.J. Gallo, Sutter Home, Delicato, Constellation Brands, The Wine Group, O'Neill's Vintners and Distillers, and Franzia Cellars. ***. Staff attempted to gather additional information from these producers in order to provide data with regard to the captive production provision, but none of these producers provided a response.

Based on a review of data from third-party sources, ***. These firms did not provide any responses to the Commission's questionnaires.

A company representative from ***. ***.

A company representative from *** stated that ***. ***. ***.

[2] The petition specifically identified two additional producers of WGJC potentially for commercial sales, Vie-Del Company and Lamanuzzi and Pantaleo. Neither company submitted a response to the Commission's U.S. producer questionnaire. Based on information provided in the petition, in 2019 Lamanuzzi and Pantaleo produced 600,000 gallons of WGJC and Vie-Del produced 350,000 gallons of WGJC. While certain purchasers ***, it is unclear as to whether these two producers only produce WGJC that is then internally consumed or if it is sold commercially. Petition, p. 5 and Cepas's postconference brief, exhibit 1.

commercial supply.[3] Table III-1 lists Delano's production location and share of total reported production.

Table III-1
WGJC: U.S. producer Delano's production location and shares of reported production, 2021

Firm	Position on petition	Production location(s)	Share of production
Delano	Petitioner	Delano, CA	***
All firms	Various	Various	***

Source: Compiled from data submitted in response to Commission questionnaires.

Delano reported that it ***. Additionally, Delano reported *** since January 1, 2019.

U.S. production, capacity, and capacity utilization

Delano produces WGJC by taking grapes received from its member growers and crushing them for further processing.[4] See Part I for a description of this process. Delano reported in its questionnaire that its member growers' grape harvests occur from June to December. Delano's crush period, during which it processes the grapes into crude WGJC, occurs from August to January.[5]

Table III-2 and figure III-1 present Delano's production, capacity, and capacity utilization reported on a calendar year basis.[6] During 2019-21 Delano's capacity and production decreased by *** percent and *** percent, respectively, and its capacity utilization decreased

[3] Petition, p. 5. Delano specified that they account for more than 85% of the production for commercial supply of WGJC.

[4] Available raw material (grapes) varies from year to year. In years in which there are raw material shortages from Delano's member growers, Delano will also purchase grapes at market price from non-member growers. See Part VI for additional information.

[5] Transcript, p. 46 (Lord). Delano reported that its WGJC was available year-round.

[6] Delano originally reported its trade data based on the company's production and fiscal year ("pool year") of July 1 to June 30, as opposed to calendar year as requested in the U.S. producer questionnaire. Pool year may also be referred to as the "vintage". (See Part VI for more information on Delano's pool year and data reported on that basis). To illustrate the difference in trends of certain trade data based on the time periods in which it was reported, these trade data as reported based on pool year are presented in Appendix E. Differences in the data are explained in the below footnotes where appropriate.

by *** percentage points.[7] [8] [9]

Table III-2
WGJC: U.S. producer Delano's production, capacity, and capacity utilization, by period

Item	Measure	2019	2020	2021
Capacity	Quantity	***	***	***
Production	Quantity	***	***	***
Capacity utilization	Ratio	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Figure III-1
WGJC: U.S. producers' production, capacity, and capacity utilization, by period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

[7] Delano calculated their capacity based on ***.

[8] Staff adjusted Delano's 2019 capacity to match its reported production during calendar year 2019.

[9] When reported on a pool year basis, during 2019-21 Delano's capacity remained flat at *** gallons, its production increased by *** percent from *** gallons in 2019 to *** gallons in 2021, and its capacity utilization increased by *** percentage points, from *** percent in 2019 to *** percent in 2021.

As seen below in Table III-3, Delano reported using *** for its production of its WGJC.[10]

Table III-3
WGJC: U.S. producer Delano's production by grape type and period

Grape type	Measure	2019	2020	2021
Table grapes	Quantity	***	***	***
Raisin grapes	Quantity	***	***	***
Wine grapes	Quantity	***	***	***
Other or unknown grapes	Quantity	***	***	***
All grape types	Quantity	***	***	***
Table grapes	Share	***	***	***
Raisin grapes	Share	***	***	***
Wine grapes	Share	***	***	***
Other or unknown grapes	Share	***	***	***
All grape types	Share	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Alternative products

Delano reported no production of other products on the same machinery as WGJC.[11]

[10] Industry representatives noted at the staff conference that the cost of transporting wine grapes produced in California to a processor to make WGJC is prohibitively expensive and not economically viable. Transcript, pp. 130-131 (Bitter).

[11] Delano stated that it does not produce any other product other than WGJC. Transcript, p. 78-79 (Lord).

The firm does switch between producing conventional, organic, kosher, and kosher organic WGJC, with production runs of kosher and kosher organic lasting for about *** at a time. In order to produce either kosher or kosher organic WGJC, Delano must hot rinse all of its tanks to be used to hold the kosher product, and must kosher wash its production equipment. This conversion process takes *** to complete. Conference transcript, pp. 76-78 (Lord). ***.

U.S. producers' U.S. shipments and exports

Table III-4 presents U.S. producers' U.S. shipments, export shipments, and total shipments.[12] Delano reported no export shipments, therefore, its U.S. shipments were its total shipments. Despite production decreasing during 2019-21, the quantity and value of Delano's U.S. shipments increased each year during 2019-21 for a total increase of *** percent and *** percent, respectively.[13] The average unit value of Delano's U.S. shipments increased by $*** per gallon, or by *** percent, during 2019-21.

Table III-4
WGJC: U.S. producer Delano's total shipments, by destination and period

Quantity in 1,000 gallons; value in 1,000 dollars; unit value in dollars per gallon; shares in percent

Item	Measure	2019	2020	2021
U.S. shipments	Quantity	***	***	***
Export shipments	Quantity	***	***	***
Total shipments	Quantity	***	***	***
U.S. shipments	Value	***	***	***
Export shipments	Value	***	***	***
Total shipments	Value	***	***	***
U.S. shipments	Unit value	***	***	***
Export shipments	Unit value	***	***	***
Total shipments	Unit value	***	***	***
U.S. shipments	Share of quantity	***	***	***
Export shipments	Share of quantity	***	***	***
Total shipments	Share of quantity	***	***	***
U.S. shipments	Share of value	***	***	***
Export shipments	Share of value	***	***	***
Total shipments	Share of value	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

[12] Additional information on Delano's U.S. shipments by type is available in Appendix F. ***.
[13] Delano ***.

U.S. producers' inventories

Table III-5 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments.[14] Delano's end-of-period inventories decreased during 2019-21 by *** percent. The inventory ratio to U.S. production increased overall during 2019-21, with the largest increase in 2020. The inventory ratio to Delano's U.S. and total shipments ended in 2021 at *** the inventory ratio to U.S. and total shipments reported for 2019.[15]

Table III-5
WGJC: U.S. producers' inventories and their ratio to select items, by period

Quantity in 1,000 gallons; ratio in percent

Item	2019	2020	2021
End-of-period inventory quantity	***	***	***
Inventory ratio to U.S. production	***	***	***
Inventory ratio to U.S. shipments	***	***	***
Inventory ratio to total shipments	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

[14] The inventories that Delano reported in its questionnaire ***. ***. ***.

[15] When reported on a pool year basis, Delano's end-of-period inventories were *** gallons in 2019, *** gallons in 2020, and *** gallons in 2021. Delano's company representative explained that the ***. ***.

U.S. employment, wages, and productivity

Table III-6 shows U.S. producers' employment-related data. During 2019-21 Delano's production and related workers ("PRWs") remained stable overall, however hours worked and hours per PRW decreased despite the number of PRWs being the same in 2021 as they were in 2019. Wages and hourly wages increased by *** percent and *** percent, respectively, and unit labor costs increased by $*** per gallon during 2019-21.[16] Productivity decreased during 2019-21 by *** percent.

Table III-6
WGJC: U.S. producers' employment related information, by period

Item	2019	2020	2021
Production and related workers (PRWs) (number)	***	***	***
Total hours worked (1,000 hours)	***	***	***
Hours worked per PRW (hours)	***	***	***
Wages paid ($1,000)	***	***	***
Hourly wages (dollars per hour)	***	***	***
Productivity (gallons per hour)	***	***	***
Unit labor costs (dollars per gallon)	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

[16] Delano reported ***.

Part IV: U.S. imports, apparent U.S. consumption, and market shares

U.S. importers

The Commission issued importer questionnaires to 16 firms believed to be importers of subject WGJC, as well as to all U.S. producers of WGJC.[1] Usable questionnaire responses were received from nine companies, representing approximately 46.5 percent of the value of U.S. imports of from Argentina, and *** percent from nonsubject sources, of merchandise imported under HTS subheading 2009.69.00, a "basket" category, in 2021.[2] [3] [4] [5] Table IV-1 lists all responding U.S. importers of WGJC from Argentina and other sources, their locations, and their shares of U.S. imports, in 2021.

[1] The Commission issued questionnaires to those firms identified in the petition, along with firms that, based on a review of data from third-party sources, may have accounted for more than one percent of total imports under HTS subheading 2009.69.00 in 2021.

[2] The coverage figures above were derived from the value of U.S. imports as reported in response to the questionnaire as a share of the value of U.S. imports based on official statistics. Staff notes that the quantity data as reported in official statistics may be overstated. Respondents noted in pre-conference written statements and at the conference that U.S. import statistics for fruit juice concentrate are recorded as volume of single-strength equivalent, rather than the volume of imports of concentrate. This is done in order to account for calculation of the existing duty on imports under HTS subheading 2009.69.00 of 4.4 cents per liter. Staff are following up with the appropriate personnel to obtain additional information.

[3] Delano stated that it has no way to determine all of the products that enter under this subheading. Petitioner's postconference brief, p. 29.

[4] Respondents stated that additional products that may be imported under this subheading include non-subject white grape juice concentrate with a Brix level lower than 65, as well as red grape juice concentrate. Subject WGJC is estimated to account for 90 percent of all merchandise imported from Argentina under HTS subheading 2009.69.00. Transcript, pp. 195-196 (Alarcón).

[5] ***.

Table IV-1
WGJC: U.S. importers, their headquarters, and share of imports within each source, 2021

Share in percent

Firm	Headquarters	Argentina	Nonsubject sources	All import sources
Cepas	Buenos Aires, Argentina	***	***	***
Edaflors	Coral Gables, FL	***	***	***
Ferreiro	Coral Gables, FL	***	***	***
Global Natural	Livingston Manor, NY	***	***	***
Hosh	Fort Lauderdale, FL	***	***	***
Mitsui	New York, NY	***	***	***
Ocean Spray	Lakeville-Middleboro, MA	***	***	***
Rahal	Oak Brook, IL	***	***	***
Tradin Organic	Scotts Valley, CA	***	***	***
All firms	Various	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. imports

Table IV-2 and figure IV-1 present data for U.S. imports of WGJC from Argentina and all other sources.[6] The quantity of U.S. imports of WGJC from Argentina decreased each year during 2019-21, ending 43.1 percent lower in 2021 than in 2019. ***, which collectively accounted for *** of reported subject imports during 2019-21, reported *** decreases in the quantity of their firm's U.S. imports of WGJC from Argentina during 2019-21. The value of U.S. imports of WGJC from Argentina similarly decreased by 33.2 percent during 2019-21. The disproportionate decrease in quantity relative to the decrease in value resulted in an overall increase of 17.4 percent in the average unit value of subject imports during 2019-21, from $7.04 per gallon in 2019, to $8.26 per gallon 2021.

In contrast to the trends in U.S. imports of WGJC from Argentina, the volume and value of imports of WGJC from nonsubject sources *** during 2019-21. The average unit value of nonsubject imports ranged from $*** per gallon to $*** per gallon during 2019-21, and increased overall by *** percent during this period.

While imports from Argentina accounted for the majority of U.S. imports of WGJC, imports from nonsubject sources accounted for an increasing share of U.S. imports during 2019-21; in 2019 imports from nonsubject sources accounted for *** percent and *** percent of the quantity and value, respectively, of total imports. By 2021, imports from nonsubject sources accounted for *** percent of total imports by quantity and *** percent of total imports by value.

[6] Additional information on U.S. importers' U.S. shipments by type is available in Appendix F. As shown in appendix F, during 2019-21, virtually all U.S. shipments of WGJC imports from Argentina and from nonsubject sources were non-frozen WGJC. In addition, the vast majority of U.S. shipments of WGJC imports from Argentina and nonsubject sources were not certified either organic or Kosher, except in 2021 during which the majority of US shipments of imports from nonsubject sources were certified Kosher but not organic.

Table IV-2
WGJC: U.S. imports by source and period

Quantity in 1,000 gallons; value in 1,000 dollars; unit value in dollars per gallon

Source	Measure	2019	2020	2021
Argentina	Quantity	6,578	4,811	3,742
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
Argentina	Value	46,301	32,961	30,926
Nonsubject sources	Value	***	***	***
All import sources	Value	***	***	***
Argentina	Unit value	7.04	6.85	8.26
Nonsubject sources	Unit value	***	***	***
All import sources	Unit value	***	***	***

Table continued.

Table IV-2 Continued
WGJC: Share of U.S. imports by source and period

Source	Measure	2019	2020	2021
Argentina	Share of quantity	***	***	***
Nonsubject sources	Share of quantity	***	***	***
All import sources	Share of quantity	***	***	***
Argentina	Share of value	***	***	***
Nonsubject sources	Share of value	***	***	***
All import sources	Share of value	***	***	***
Argentina	Ratio	***	***	***
Nonsubject sources	Ratio	***	***	***
All import sources	Ratio	***	***	***

Table continued.

Table IV-2 Continued
WGJC: Trends of U.S. imports by source and period

Changes in percent

Source	Measure	2019-21	2019-20	2020-21
Argentina	% Quantity	▼***	▼***	▼***
Nonsubject sources	% Quantity	▲***	▲***	▲***
All import sources	% Quantity	▼***	▼***	▼***
Argentina	% Value	▼***	▼***	▼***
Nonsubject sources	% Value	▲***	▲***	▲***
All import sources	% Value	▼***	▼***	▼***
Argentina	% Unit value	▲***	▼***	▲***
Nonsubject sources	% Unit value	▲***	▼***	▲***
All import sources	% Unit value	▲***	▼***	▲***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Share of quantity is the share of U.S. imports by quantity; share of value is the share of U.S. imports by value; ratio are U.S. imports to production.

Figure IV-1
WGJC: U.S. import quantities and average unit values, by source and period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

Negligibility

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[7] Negligible imports are generally defined in the Act, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[8] Imports from Argentina accounted for *** percent of total imports of WGJC by quantity during the 12-month period preceding the filing of the petition (table IV-3).

Table IV-3
WGJC: U.S. imports in the twelve-month period preceding the filing of the petition, March 2021 through February 2022

Quantity in 1,000 gallons; share in percent

Source of imports	Quantity	Share of quantity
Argentina	***	***
Nonsubject sources	***	***
All import sources	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

[7] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[8] Section 771 (24) of the Act (19 U.S.C § 1677(24)).

Apparent U.S. consumption and market shares

As discussed below, apparent U.S. consumption of WGJC declined by quantity during 2019-21, which may be attributed to the decline in demand of certain downstream products that use WGJC. As noted in Part II, U.S. demand of WGJC depends on the demand for U.S. produced downstream products, including juice blends, juice ingredients, wines, additives in baked goods, and other health and wellness products. At the Commission's staff conference parties noted that the demand for certain downstream products (namely, juice blends and juice ingredients) has declined as consumers and producers of downstream juice blends look for healthier alternatives.[9]

Quantity

As shown in table IV-4 and figure IV-2, the quantity of apparent U.S. consumption of WGJC declined during 2019-21 by *** percent. This decrease can be primarily attributed to the decrease in U.S. importers' U.S. shipments of imports from Argentina, which decreased by 43.1 percent during 2019-21. By quantity, Delano's market share increased during 2019-21, from *** percent in 2019 to *** percent in 2021, for a total increase of *** percentage points. While the market share held by subject imports declined by *** percentage points during 2019-21, the market share held by nonsubject imports increased by *** percentage points.

[9] Transcript, pp. 145 (Lord) and 182 (Alarcon).

Table IV-4
WGJC: Apparent U.S. consumption and market shares based on quantity, by source and period

Quantity in 1,000 gallons; shares in percent

Source	Measure	2019	2020	2021
U.S. producers	Quantity	***	***	***
Argentina	Quantity	6,503	4,836	3,699
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
All sources	Quantity	***	***	***
U.S. producers	Share	***	***	***
Argentina	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Figure IV-2
WGJC: Apparent U.S. consumption based on quantity, by source and period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires

Value

Unlike consumption quantity, the value of apparent U.S. consumption increased by *** percent during 2019-21 (table IV-5 and figure IV-3). The value of U.S. importers' U.S. shipments of WGJC from Argentina decreased during 2019-21 by 34.9 percent. Delano's market share by value increased by *** percentage points during 2019-21. The market share by value held by subject imports decreased by *** percentage points during 2019-21, while the market share by value held by nonsubject imports increased by *** percentage points.

Table IV-5
WGJC: Apparent U.S. consumption and market shares based on value, by source and period

Value in 1,000 dollars; shares in percent

Source	Measure	2019	2020	2021
U.S. producers	Value	***	***	***
Argentina	Value	50,920	37,236	33,144
Nonsubject sources	Value	***	***	***
All import sources	Value	***	***	***
All sources	Value	***	***	***
U.S. producers	Share	***	***	***
Argentina	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Figure IV-3
WGJC: Apparent U.S. consumption based on value, by source and period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires

Part V: Pricing data

Factors affecting prices

Raw material costs

The primary raw material used in the production of WGJC is crushed grapes, excluding those with red juice like Rubired, and these grapes generally do not meet the grade for their originally intended markets (wine, table grapes, raisins, etc.).[1]. The crushed grapes are primarily table and raisin grapes for domestic products, and table, raisin, and wine grapes for Argentinian producers. The subject product uses a less expensive native Argentinian variety known as "criolla" or "cherry" grape. Petitioner Delano stated that its vertical integration with grape growers makes it less affected by grape prices.[2] Argentinian producers, however, note they have more importance [3].

U.S. producer Delano reported that raw material prices have *** and all four responding importers reported that raw material prices have increased since January 1, 2019. Delano noted that grape vines are being pulled and replaced with other permanent crops and that the scarcity of grapes leads to higher prices. It also noted that raw material price increases were due in part to buying from growers outside of the Delano grower cooperative, which have higher grape prices.[4] It also noted that WGJC grape pricing is impacted by supply and the price of grapes for raisins and winemaking. The distance of the grapes to a winery can also influence the price.

Importer *** stated that grapes and logistics have become more expensive. Importer *** stated that the cost of production, logistics, and packaging has increased. Importer *** reported that the price paid for grapes in Argentina has increased in each year since 2019, from $97 per ton in 2019 to $103 per ton in 2020 to $214 per ton in 2021 and $276 in 2022. *** also noted that price increases were due to raw materials, energy, and labor cost increases.[5] Importer *** reported price increases for raw materials of WGJC since 2019. Importer *** reported while selling prices of WGJC increased, it cannot be connected clearly to the cost of raw material, as all input costs rose.

[1] Petition, p. 11.
[2] Conference transcript p. 92 (Packer).
[3] Conference transcript, p. 221 (Ruiz).
[4] Conference transcript, p. 38 (Packer).
[5] Conference transcript, p. 161 (Dileva)

Transportation costs to the U.S. market

Transportation costs for WGJC shipped from Argentina to the United States averaged 13.0 percent during 2021. These estimates were derived from official import data and represent the transportation and other charges on imports.[6]

U.S. inland transportation costs

Delano reported that *** and 4 of 8 responding importers reported that their customers typically arrange transportation. Delano reported that its U.S. inland transportation cost was *** percent while most responding importers reported costs of 0 to 5 percent.[7]

Pricing practices

Pricing methods

U.S. producer Delano reported setting prices using ***. Importers reported setting prices using contracts and transaction-by-transaction negotiations (table V-1).

Table V-1
WGJC: Count of U.S. producers' and importers' reported price setting methods

Method	U.S. producers	Importers
Transaction-by-transaction	***	6
Contract	***	8
Set price list	***	0
Other	***	0
Responding firms	***	8

Source: Compiled from data submitted in response to Commission questionnaires.

Note: The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

[6] The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2021 and then dividing by the customs value based on the HTS statistical reporting numbers 2009.69.0040 and 2009.69.0060.

[7] One importer *** reported transportation costs of 10 to 20 percent.

The U.S. producer reported selling about *** of its WGJC ***, followed by *** (*** of sales), with *** sold *** (table V-2). Subject importers reported selling about *** percent through annual contracts and about *** percent short-term contracts.

Table V-2
WGJC: U.S. producers' and importers' shares of commercial U.S. shipments by type of sale, 2021

Share in percent

Item	U.S. producers	Subject U.S. importers
Long-term contracts	***	***
Annual contract	***	***
Short-term contracts	***	***
Spot sales	***	***
Total	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Because of rounding, figures may not add to the totals shown.

***. Most U.S. importers used annual contracts that typically did not allow price renegotiations, fixed price and/or quantity, with no indexing of raw materials. The majority of U.S. importer sales were made under annual contracts followed by short term contracts.

Sales terms and discounts

*** importers typically quote prices on an f.o.b basis. ***. Importers reported having no discount policy.

Price data

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following WGJC products shipped to unrelated U.S. customers during January 2019-December 2021.

Product 1.—Kosher organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 2.—Kosher non-organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 3.—Organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Product 4.— Conventional non-organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

One U.S. producer and eight importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[8] Pricing data reported by these firms accounted for *** of U.S. producers' U.S. shipments of WGJC and between *** of U.S. shipments of subject imports from Argentina in 2021.[9]

Price data for products 1-4 are presented in tables V-3 to V-6 and figures V-1 to V-4.

[8] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates. Quantities of zero represent quantities that are greater than zero but less than 500 gallons.

[9] Pricing coverage is based on U.S. shipments reported in questionnaires.

Table V-3
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by source and quarter

Price in dollars per gallon, quantity in 1,000 gallons, margin in percent.

Period	U.S. price	U.S. quantity	Argentina price	Argentina quantity	Argentina margin
2019 Q1	***	***	***	***	***
2019 Q2	***	***	***	***	***
2019 Q3	***	***	***	***	***
2019 Q4	***	***	***	***	***
2020 Q1	***	***	***	***	***
2020 Q2	***	***	***	***	***
2020 Q3	***	***	***	***	***
2020 Q4	***	***	***	***	***
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 1: Kosher organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Figure V-1
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by source and quarter

Price of product 1

* * * * * * *

Volume of product 1

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 1: Kosher organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).
Note: No data were reported for Argentina for product 1.

Table V-4
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by source and quarter

Price in dollars per gallon, quantity in 1,000 gallons, margin in percent.

Period	U.S. price	U.S. quantity	Argentina price	Argentina quantity	Argentina margin
2019 Q1	***	***	***	***	***
2019 Q2	***	***	***	***	***
2019 Q3	***	***	***	***	***
2019 Q4	***	***	***	***	***
2020 Q1	***	***	***	***	***
2020 Q2	***	***	***	***	***
2020 Q3	***	***	***	***	***
2020 Q4	***	***	***	***	***
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 2: Kosher non-organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Figure V-2
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by source and quarter

Price of product 2

* * * * * * *

Volume of product 2

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 2: Kosher non-organic white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Table V-5
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by source and quarter

Price in dollars per gallon, quantity in 1,000 gallons, margin in percent.

Period	U.S. price	U.S. quantity	Argentina price	Argentina quantity	Argentina margin
2019 Q1	***	***	***	***	***
2019 Q2	***	***	***	***	***
2019 Q3	***	***	***	***	***
2019 Q4	***	***	***	***	***
2020 Q1	***	***	***	***	***
2020 Q2	***	***	***	***	***
2020 Q3	***	***	***	***	***
2020 Q4	***	***	***	***	***
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 3: Organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Figure V-3
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, by source and quarter

Price of product 3

* * * * * * *

Volume of product 3

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 3: Organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Table V-6
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by source and quarter

Price in dollars per gallon, quantity in 1,000 gallons, margin in percent.

Period	U.S. price	U.S. quantity	Argentina price	Argentina quantity	Argentina margin
2019 Q1	***	***	***	***	***
2019 Q2	***	***	***	***	***
2019 Q3	***	***	***	***	***
2019 Q4	***	***	***	***	***
2020 Q1	***	***	***	***	***
2020 Q2	***	***	***	***	***
2020 Q3	***	***	***	***	***
2020 Q4	***	***	***	***	***
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 4: Conventional non-organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Figure V-4
WGJC: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, by source and quarter

Price of product 4

* * * * * * *

Volume of product 4

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires.

Note: Product 4: Conventional non-organic non-kosher white grape juice concentrate with a Brix level of 65 to 68 +/- .05, sold in bulk containers, (i.e., 52-gallon poly-lined drums, tote bins of 250 – 375 gallons, bulk containers of 4,300 – 4700 gallons, and ISO tankers of approximately 20,000 gallons).

Price trends

Prices showed mixed trends during January 2019-December 2021. Domestic prices were relatively stable over the period. Subject import prices generally declined in 2019, showed mixed trends in 2020, and then increased in 2021. Table V-7 summarizes the price trends, by country and by product. As shown in the table, domestic prices for products 2 and 4 increased by *** and *** percent, respectively during January 2019-December 2021, and domestic prices for product 3 decreased by *** percent. Subject import prices decreased for products 2 and 3, by *** and *** percent, respectively, and product 4 prices increased by *** percent.

Table V-7
WGJC: Summary of price data, by product and source, January 2019-December 2021

Quantity in 1,000 gallons, price in dollars per gallon

Product	Source	Number of quarters	Quantity	Low price	High price	First quarter price	Last quarter price	Change over period
Product 1	United States	***	***	***	***	***	***	***
Product 1	Argentina	***	***	***	***	***	***	***
Product 2	United States	***	***	***	***	***	***	***
Product 2	Argentina	***	***	***	***	***	***	***
Product 3	United States	***	***	***	***	***	***	***
Product 3	Argentina	***	***	***	***	***	***	***
Product 4	United States	***	***	***	***	***	***	***
Product 4	Argentina	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.
Note: Percent change column is percentage change from the first quarter 2019 to the last quarter in 2021.

Price comparisons

As shown in table V-8, prices for product imported from Argentina were below those for U.S.-produced product in 24 of 32 instances (*** gallons); margins of underselling ranged from *** to *** percent. In the remaining *** instances (*** gallons), prices for product from Argentina were between *** and *** percent above prices for the domestic product.

Table V-8
WGJC: Instances of underselling and overselling and the range and average of margins, by product

Quantity in 1,000 gallons; margin in percent

Product	Type	Number of quarters	Quantity	Average margin	Mln margin	Max margin
Product 1	Underselling	***	***	***	***	***
Product 2	Underselling	***	***	***	***	***
Product 3	Underselling	***	***	***	***	***
Product 4	Underselling	***	***	***	***	***
All products	Underselling	24	***	***	***	***
Product 1	Overselling	***	***	***	***	***
Product 2	Overselling	***	***	***	***	***
Product 3	Overselling	***	***	***	***	***
Product 4	Overselling	***	***	***	***	***
All products	Overselling	8	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: These data include only quarters in which there is a comparison between the U.S. and subject product.

Lost sales and lost revenue

The petitioner reported that it had to reduce prices and had lost sales and submitted lost sales and lost revenue allegations. It identified *** firms, ***, with which it had lost both sales and revenue.

Staff contacted 12 purchasers and received responses from 5 purchasers.[10] Responding purchasers reported purchasing *** gallons of WGJC during January 2019-December 2021 (table V-9).

[10] Since lost sales and lost revenues allegations were not submitted with the petition, staff identified other firms which it believed to be purchasers of WGJC and sent questionnaires to these firms. When the petitioner submitted the allegations, staff also sent questionnaires to those *** firms. ***.

Table V-9
WGJC: Purchasers' reported purchases and imports, by firm and source

Quantity in 1,000 gallons, share in percent

Firm	Domestic quantity	Subject quantity	All other quantity	Change in domestic share	Change in subject share
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
All firms	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Note: All other includes all other sources and unknown sources. Change is the percentage point change in the share of the firm's total purchases of domestic and/or subject country imports between first and last years.

During 2021, responding purchasers that *** percent of their total purchases and imports were from U.S. producers, *** percent from Argentina, and *** percent from nonsubject countries such as Spain. No firms reported purchasing from "unknown sources." Purchasers were asked about changes in their purchasing patterns from different sources since 2019. Of the responding purchasers, three reported increasing purchases, one reported fluctuating purchases, and one did not purchase any domestic product.

Purchaser *** reported decreased purchases from Argentina because of increased prices and supply issues, and increased purchases of nonsubject product and noting that the increased cost of WGJC from the United States and Argentina made Spanish product more competitive. Purchaser *** reported increased purchases of domestic product and decreased purchases of imports and noted a preference for WGJC to be delivered in tanker trucks from a local supplier. Purchaser *** reported that its purchases of domestic and Argentine WGJC fluctuated based on fluctuations in demand.

Of the five responding purchasers, four reported that since 2019 they had purchased imported WGJC from Argentina instead of U.S.-produced product and one reported it had not (table V-10). Three of these purchasers reported that subject import prices were lower than U.S.-produced product and one reported they were not lower, and one of these purchasers reported that price was a primary reason for the decision to purchase imported product rather than U.S.-produced product. One purchaser estimated the quantity of WGJC from Argentina purchased instead of domestic product; it reported a quantity of *** gallons. Purchasers identified multiple non-price reasons for purchasing imported rather than U.S.-produced product. Purchaser *** noted that Delano doesn't sell enough product of

specific specifications, like organic kosher or specific package specifications (43.29 gallons container), to sufficiently supply them. Purchaser *** noted product specification and expansion of supplier base as reason for purchasing imported rather than domestic WGJC.

Table V-10
WGJC: Purchasers' responses to purchasing subject imports instead of domestic product, by firm

Quantity in 1,000 gallons

Purchaser	Purchased subject imports instead of domestic	Imports priced lower	Choice based on price	Quantity	Explanation
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
All firms	Yes--4; No--1	Yes--3; No--1	Yes--1; No--2	***	NA

Source: Compiled from data submitted in response to Commission questionnaires.

None of the five responding purchasers reported that U.S. producers had reduced prices in order to compete with lower-priced imports from Argentina; all five reported that they did not know.

In responding to the lost sales and lost revenue survey, one purchaser provided additional information on purchases and market dynamics. Purchaser *** stated that domestic product is of much better quality and that it prefers to purchase local. There are few domestic suppliers and domestic product is limited. Their prices recently between domestic and foreign product are close, so importing is done primarily when there is not enough domestic supply. Delano growers are its main supplier of WGJC. Due to product availability, production schedules, and crop yields, it supplements its needs with offshore WGJC. The two products are very different, and we use them in different programs. *** also noted offshore product is more expensive in terms of delivered price currently.

Part VI: Financial experience of U.S. processors

Background[1]

The petitioner, Delano, is the only U.S. processor of WGJC that provided usable financial data. [2] Delano reported financial data for a fiscal year ending June 30 and on the basis of GAAP.[3] Delano processes grapes delivered by its member growers (referred to as "patrons" in its financial statements) into WGJC, and accounts for its operations on a "pooling basis".[4] Revenue reflects ***.

[1] The following abbreviations may be used in the tables and/or text of this section: generally accepted accounting principles ("GAAP"), fiscal year ("FY"), net sales ("NS"), fair market value ("FMV"), cost of goods sold ("COGS"), selling, general, and administrative expenses ("SG&A expenses"), average unit values ("AUVs"), research and development expenses ("R&D expenses"), and return on assets ("ROA").

[2] Delano identified other U.S. producers as follows: two firms, Lamanuzzi & Pantaleo, LLC and Vie Del Company, that both internally consume as well as commercially sell small amounts of WGJC. Delano estimated that these firms, Lamanuzzi & Pantaleo, LLC and Vie Del Company, crushed ***, respectively, in 2019. Delano also identified winemakers that internally consume all of the WGJC they produce, including firms such as Constellation Brand, Delicato, E.J. Gallo, Franzia Cellars, O'Neills Vintners and Distillers, Sutter Home, and The Wine Group. General Issues Questionnaire, exh. 10, EDIS Doc. 767868 (April 11, 2022).

[3] The trade and financial sections of the Commission's questionnaire ***.

[4] Delano ***. General Issues Questionnaire, supplementals to exh. 33, EDIS Doc. 767868 (April 11, 2022) ("Independent Auditor's Report, supplementals to exh. 33").

A "pool year" is ***. Rick Lord, the general manager for Delano, ***. General Issues Questionnaire, answer to question 9, answer to question 19, and exh. 10, EDIS Doc. 767868 (April 11, 2022) and emails from ***, April 22 and May 6, 2022.

Delano *** grapes received from cooperative members ***.[5] In other words, Delano ***. In Delano's operational structure as a cooperative, inventory is ***. GAAP accepts net realizable valuation, but it is not the same as cost, and ***.[6]

[5] ***, May 4, 2022. It should be noted that the ***.

[6] GAAP requires an appropriate valuation of inventory whenever a balance sheet is presented. Typically, a company reports inventories consisting of raw materials, work-in-process, and finished goods at the lower of cost or net realizable value ("NRV"). NRV is the expected selling price minus total production and selling costs. Delano ***. In Delano's audited financial statements, the NRV is ***. In summary, Delano ***. Emails from ***, May 2 and May 4, 2022.

Operations on WGJC

Table VI-1 presents data on Delano's U.S. operations in relation to WGJC, while table VI-2 presents corresponding changes in AUVs.

Table VI-1
WGJC: Results of operations of U.S. producer Delano, by item and fiscal year period

Quantity in 1,000 gallons; value in 1,000 dollars; ratios in percent

Item	Measure	2019	2020	2021
Total net sales	Quantity	***	***	***
Total net sales	Value	***	***	***
COGS: Member contributions (estimated using change in raw material inventories measured in NRV)	Value	***	***	***
COGS: Purchased cost of grapes from non-members	Value	***	***	***
COGS: Estimated raw materials	Value	***	***	***
COGS: Direct labor	Value	***	***	***
COGS: Other factory	Value	***	***	***
COGS: Total	Value	***	***	***
Gross proceeds or (loss)	Value	***	***	***
SG&A expenses	Value	***	***	***
Operating proceeds or (loss)	Value	***	***	***
Interest expense	Value	***	***	***
Net proceeds or (loss)	Value	***	***	***
Payments to members	Value	***	***	***
Net proceeds or (loss) after payments	Value	***	***	***
Depreciation/amortization	Value	***	***	***
Cash flow	Value	***	***	***
COGS: Estimated raw materials	Ratio to NS	***	***	***
COGS: Direct labor	Ratio to NS	***	***	***
COGS: Other factory	Ratio to NS	***	***	***
COGS: Total	Ratio to NS	***	***	***
Gross proceeds or (loss)	Ratio to NS	***	***	***
SG&A expense	Ratio to NS	***	***	***
Operating proceeds or (loss)	Ratio to NS	***	***	***
Net proceeds or (loss)	Ratio to NS	***	***	***

Table continued.

Table VI-1 Continued
WGJC: Results of operations of U.S. producer Delano, by item and fiscal year period

Shares in percent; unit values in dollars per gallon; count in number of firms reporting

Item	Measure	2019	2020	2021
COGS: Estimated raw materials	Share	***	***	***
COGS: Direct labor	Share	***	***	***
COGS: Other factory	Share	***	***	***
COGS: Total	Share	***	***	***
Total net sales	Unit value	***	***	***
COGS: Estimated raw materials	Unit value	***	***	***
COGS: Direct labor	Unit value	***	***	***
COGS: Other factory	Unit value	***	***	***
COGS: Total	Unit value	***	***	***
Gross proceeds or (loss)	Unit value	***	***	***
SG&A expenses	Unit value	***	***	***
Operating proceeds or (loss)	Unit value	***	***	***
Net proceeds or (loss)	Unit value	***	***	***
Operating losses	Count	***	***	***
Net losses	Count	***	***	***
Data	Count	***	***	***

Source: Compiled from data submitted in response to a Commission questionnaire.

Note: Total COGS was calculated using ***. See footnotes 6, 11, and 12 in this section for more details.

Table VI-2
WGJC: Changes in AUVs between comparison periods

Changes in percent

Item	2019-21	2019-20	2020-21
Total net sales	▲***	▲***	▲***
COGS: Estimated raw materials	***	***	▲***
COGS: Direct labor	▼***	▼***	▼***
COGS: Other factory	▼***	▼***	▼***
COGS: Total	▲***	▲***	▲***

Table continued.

Table VI-2 Continued
WGJC: Changes in AUVs between comparison periods

Changes in dollars per gallon

Item	2019-21	2019-20	2020-21
Total net sales	▲***	▲***	▲***
COGS: Estimated raw materials	▲***	▲***	▲***
COGS: Direct labor	▼***	▼***	▼***
COGS: Other factory	▼***	▼***	▼***
COGS: Total	▲***	▲***	▲***
Gross proceeds or (loss)	▼***	▼***	▼***
SG&A expense	▼***	▼***	▼***
Operating proceeds or (loss)	▼***	▼***	▼***
Net proceeds or (loss)	▼***	▼***	▼***

Source: Compiled from data submitted in response to a Commission questionnaire.

Net sales

As presented in table VI-1, Delano's revenues and AUV of net sales increased each year from 2019 to 2021.[7] Delano's revenues include sales of WGJC *** sold and reported using GAAP revenue recognition principles.[8] For fiscal year 2021, Delano's sales to *** of total net revenues.[9] The variations in net sales AUVs are driven by ***.[10]

[7] Delano's reported revenues ***. Independent Auditor's Report, supplementals to exh. 33.

[8] Delano's revenues ***. Ibid.

For all three annual periods for which data were collected, Delano sold and shipped ***. There may be differences in the production and inventory data which are reported using calendar year while net sales are reported using fiscal year. See tables III-4 and III-5 for Delano's production and inventory data.

[9] For fiscal year 2020, sales ***. Independent Auditor's Report, supplementals to exh. 33.

[10] Email from ***, May 3, 2022, and emails from ***, May 4, 2022.

Cost of goods sold and gross proceeds or loss

Table VI-1 shows that the estimated total raw materials accounts for a wide range of total COGS from 2019 to 2021.[11] In total value and on a per-unit basis, estimated raw material costs increased from 2019 to 2021. As a ratio to net sales, estimated raw material costs also increased from 2019 to 2021.[12] Delano sources grapes ***

[11] Total raw material values are *** the most reasonable method to value cooperative member contributions.

Staff worked with Delano on alternative methods to ***. Emails from ***, May 2-4, 2022.

[12] The *** total raw material values and the corresponding ratio of total COGS, ratio to net sales, and AUV in 2019 are the result of the *** in the NRV of inventory *** in 2019. Because raw materials reported ***.

Delano further explained that the ***. Email from ***, May 4, 2022.

***. Delano explained that ***.[13]

Table VI-1 shows that direct labor and other factory costs' share of total COGS varied dramatically from 2019 to 2021 as a result of the large variation in estimated raw material values. Direct labor costs *** by *** percent in absolute values while other factory costs *** by *** percent in absolute values from 2019 to 2021.[14] As a ratio of net sales, both direct labor and other factory costs *** from *** to *** percent and *** to *** from 2019 to 2021, respectively, due to *** between 2020 and 2021. Direct labor and other factory cost AUVs (dollars per gallon) also decreased each year; from $*** from 2019 to $*** in 2021 for direct labor and from $*** in 2019 to $*** in 2021 for other factory costs. Both direct labor and other factory costs ***.[15] Delano attributed the *** in other factory costs indicators to the fact that the 2018 crush season (from grapes received in starting in August 2018 through January 2019) *** and several factory ***.[16]

[13] Delano's U.S. producer questionnaire, III-19.

[14] Delano's reported direct labor and other factory costs are ***. These two categories together agree *** in Delano's audited financial statements. Other factory costs ***. The large items classified as other factory costs include ***. Delano's U.S. producer questionnaire, III-19, emails from ***, April 22 and May 6, 2022, and Independent Auditor's Report, supplementals to exh. 33.

[15] Email from ***, May 4, 2022.

[16] Staff notes, EDIS Doc. 770198 (April 29, 2022) and emails from ***, May 4, 2022.

Table VI-1 also shows that the estimated total COGS to sales ratio increased from *** percent in 2019 to *** percent in 2020 and then to *** percent in 2021. COGS AUVs increased each year from $*** per gallon in 2019 to $*** per gallon in 2020 and further to $*** per gallon in 2021, driven by the *** in estimated raw material costs which offset the *** in direct labor and other factory costs.

As presented in table VI-1, Delano's gross proceeds ***, from $*** in 2019 to $*** in 2020 and then to $*** in 2021. Gross margins followed the same trend, *** from *** percent in 2019 to *** percent in 2020 and to *** percent in 2021. This reflected the ***. To a much lesser extent, Delano's gross proceed trend also reflect the ***.

SG&A expenses and operating proceeds or loss

As presented in table VI-1, Delano's SG&A expenses, expense ratios as a share of net sales, and AUV of SG&A expenses *** from 2019 to 2021.[17] Table VI-1 also presents Delano's operating proceeds, which *** its gross proceed trends, ***. Operating margins (i.e. operating proceeds divided by net sales) followed the same directional pattern as ***, *** from *** percent in 2019 to *** percent in 2020 and *** to *** percent in 2021.

All other expenses and net proceeds or loss before distributions

Classified below the operating proceeds are interest expense, other expense and other proceeds. As presented in table VI-1, *** interest expenses ***. *** from 2019 to 2021.[18]

[17] SG&A data agree with Delano's audited financial statements (including depreciation) for all three fiscal years for which data were collected. Staff notes that ***. Emails from ***, May 4, 2022. These items *** short time period in this preliminary investigation.

[18] Interest expenses reported by Delano ***. Independent Auditor's Report, supplementals to exh. 33.

Similar to gross and operating proceeds, Delano's net proceeds *** from $*** in 2019 to $*** in 2020, and then to $*** in 2021.[19] The ratio of net proceeds to total net sales and the per gallon value of net proceeds followed the directional trends of actual net proceeds, from *** percent in 2019 to *** percent in 2021, and from $*** per gallon in 2019 to $*** per gallon in 2021.[20]

Capital expenditures, assets, and return on assets[21]

Table VI-3 presents Delano's capital expenditures, net assets, and operating return on assets. Table VI-4 presents Delano's narrative explanations of the nature, focus, and significance of its capital expenditures and major asset categories as well as any significant changes in asset levels over time.[22] [23]

Table VI-3
WGJC: U.S. producer Delano's capital expenditures, net assets, and operating return on assets for the total market, by period

Values in 1,000 dollars; ratio in percent

Item	Measure	2019	2020	2021
Capital expenditures	Value	***	***	***
Net assets	Value	***	***	***
Operating return on assets	Ratio	***	***	***

Source: Compiled from data submitted in response to a Commission questionnaire.

[19] Delano also reported distributions *** based on ***. Independent Auditor's Report, supplementals to exh. 33.

[20] A variance analysis is not shown due to the ***.

[21] *** were reported during the period for which data were collected.

[22] Delano stated that ***. General Issues Questionnaire, exh. 10, EDIS Doc. 767868 (April 11, 2022).

[23] The fluctuations of net assets are ***. Independent Auditor's Report, supplementals to exh. 33.

Table VI-4
WGJC: Narrative descriptions of U.S. producer Delano's capital expenditures and assets

Narrative type	Narrative explanation
Nature, focus, and significance of capital expenditures	***
Asset descriptions	***

Source: Compiled from data submitted in response to a Commission questionnaire and General Issues Questionnaire, exh. 10, EDIS Doc. 767868 (April 11, 2022).

Capital and investment

The Commission requested U.S. producers of WGJC to describe any actual or potential negative effects of imports of WGJC from Argentina on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Table VI-5 presents U.S. producer Delano's responses on the impact of subject imports in each category and table VI-6 provides its narrative responses.[24]

Table VI-5
WGJC: Count of firms indicating actual and anticipated negative effects of imports from subject sources on investment, growth, and development since January 1, 2019, by effect

Number of firms reporting

Effect	Category	Count
Cancellation, postponement, or rejection of expansion projects	Investment	***
Denial or rejection of investment proposal	Investment	***
Reduction in the size of capital investments	Investment	***
Return on specific investments negatively impacted	Investment	***
Other investment effects	Investment	***
Any negative effects on investment	Investment	***
Rejection of bank loans	Growth	***
Lowering of credit rating	Growth	***
Problem related to the issue of stocks or bonds	Growth	***
Ability to service debt	Growth	***
Other growth and development effects	Growth	***
Any negative effects on growth and development	Growth	***
Anticipated negative effects of imports	Future	***

Source: Compiled from data submitted in response to a Commission questionnaire.

[24] Delano reported ***.

Table VI-6
WGJC: Narratives relating to actual and anticipated negative effects of imports on investment, growth, and development, since January 1, 2019

Item	Firm name and narrative on impact of imports
Cancellation, postponement, or rejection of expansion projects	***
Reduction in the size of capital investments	***
Ability to service debt	***
Anticipated effects of imports	***

Source: Compiled from data submitted in response to a Commission questionnaire.

Part VII: Threat considerations and information on nonsubject countries

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

The industry in Argentina

The Commission issued foreign producers' or exporters' questionnaires to eight firms believed to produce and/or export WGJC from Argentina.[3] Usable responses to the Commission's questionnaire were received from six firms. These firms' exports to the United States accounted for approximately *** percent of U.S. imports of merchandise imported under HTS subheading 2009.69 from Argentina in 2021 based on official import statistics.[4] According to estimates requested of the responding producers in Argentina, the production of WGJC in Argentina reported in questionnaires accounts for *** percent of overall production of WGJC in Argentina.

The WGJC manufacturing industry in Argentina is primarily located in the Mendoza and San Juan provinces of the country, where most of the country's wine grapes are grown and harvested. While domestic industry's production year is from July 1st to June 30th, the crop year in Argentina runs from April 1st to March 31st. Although waning in popularity,[5] the cereza and criolla grape types, considered "pink" grapes, are the main varieties used for inputs into sulfated grape must in Argentina.[6]

Table VII-1 presents information on the WGJC operations of the responding producers and exporters in Argentina.

[3] These firms were identified through a review of information submitted in the petition and presented in third-party sources.

[4] The coverage figure shown above for foreign producers is likely understated. Staff observe that the quantity of imports of merchandise under HTS subheading 2009.69.00 is substantially larger than exports from Argentina to the United States of merchandise under HS subheading 2009.69 as reported by the Global Trade Atlas ("GTA"). When compared to exports as reported by GTA, the exports of the six firms that provided responses to the Commission's questionnaire account for *** percent of exports of merchandise under HS subheading 2009.69 from Argentina in 2021. See Part IV for additional information on import data as presented in official statistics.

[5] South America Wine Guide, "A guide to the cereza grape variety & wines" https://southamericawineguide.com/a-guide-to-the-cereza-grape-variety-wines/ accessed April 28, 2022. As discussed later in this part, the harvest from these types of grapes decreased overall, ***.

[6] As noted in Part I, the primary input of WGJC in Argentina is sulfated grape must, which is freshly crushed, unfiltered grape juice to which sulfites are added. Using sulfated grape must rather than fresh grapes allows the juice to be preserved without fermentation or the need for refrigeration. The use of this production process, however, precludes the vast majority of subject product from being sold as kosher/kosher organic WGJC.

Table VII-1
WGJC: Summary data for producers in Argentina, 2021

Quantity in 1,000 gallons; share in percent

Firm	Production (1,000 gallons)	Share of reported production (percent)	Exports to the United States (1,000 gallons)	Share of reported exports to the United States (percent)	Total shipments (1,000 gallons)	Share of firm's total shipments exported to the United States (percent)
Cepas	***	***	***	***	***	***
Enav	***	***	***	***	***	***
Fecovita	***	***	***	***	***	***
Jugos Australes	***	***	***	***	***	***
Mosto	***	***	***	***	***	***
Vina Montpellier	***	***	***	***	***	***
All firms	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Changes in operations

As presented in table VII-2 producers in Argentina reported several operational and organizational changes since January 1, 2019.

Table VII-2
WGJC: Reported changes in operations in Argentina since January 1, 2019, by firm

Item	Firm name and accompanying narrative response
Expansions	***
Revised labor agreements	***
Weather-related events	***
Weather-related events	***
Other	***
Other	***

Source: Compiled from data submitted in response to Commission questionnaires.

Operations on WGJC

Table VII-3 presents information on the WGJC operations of the responding producers and exporters in Argentina. Capacity remained flat throughout 2019-21 and is projected to remain stable in 2022 and 2023. Production, however, decreased during 2019-21 by *** percent, with the largest drop occurring between 2020 and 2021 and is projected *** in 2022. While production is projected to increase between 2022 and 2023, it is still projected to be lower than production reported in 2019.

The decrease in production coupled with the steady capacity resulted in capacity utilization declining during 2019-21 by *** percentage points, and similarly to the trend observed in production, is projected *** in 2022, then increase between 2022 and 2023 but remain lower than in 2019. End-of-period inventories of WGJC produced in Argentina decreased during 2019-21 by *** percent. Home market shipments of WGJC produced in Argentina accounted for a *** share of total shipments during 2019-21, though are projected to decrease in 2022 and 2023.

Exports accounted for *** of total shipments of WGJC from Argentina. During 2019-21, exports to the United States accounted for between *** percent and *** percent of total shipments, and exports to all other markets accounted for between *** percent and *** percent. During 2019-21, while the quantity of exports to the United States decreased by *** percent, the share of exports to the United States relative to total shipments increased by *** percentage points.

Subject WGJC producers identified a number of production constraints, primarily relating to *** the supply of grapes that are then produced into sulfated grape must. Several producers specifically noted a ***.

Table VII-3
WGJC: Data on industry in Argentina, by period

Quantity in 1,000 gallons; ratio and share in percent

Item	2019	2020	2021	Projection 2022	Projection 2023
Capacity	***	***	***	***	***
Production	***	***	***	***	***
End-of-period inventories	***	***	***	***	***
Internal consumption	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***
Home market shipments	***	***	***	***	***
Exports to the United States	***	***	***	***	***
Exports to all other markets	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***

Table continued.

Table VII-3 continued
WGJC: Data on industry in Argentina, by period

Quantity in 1,000 gallons; ratio and share in percent

Item	2019	2020	2021	Projection 2022	Projection 2023
Capacity utilization ratio	***	***	***	***	***
Inventory ratio to production	***	***	***	***	***
Inventory ratio to total shipments	***	***	***	***	***
Internal consumption share	***	***	***	***	***
Commercial home market shipments share	***	***	***	***	***
Home market shipments share	***	***	***	***	***
Exports to the United States share	***	***	***	***	***
Exports to all other markets share	***	***	***	***	***
Export shipments share	***	***	***	***	***
Total shipments share	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

As shown in Table VII-4, wine grapes accounted for *** of grapes used in the production of WGJC during 2019-21.

Table VII-4
WGJC: Producers' in Argentina production by type of grape and period

Quantity in 1,000 gallons; ratio and share in percent

Grape type	Measure	2019	2020	2021
Table grapes	Quantity	***	***	***
Raisin grapes	Quantity	***	***	***
Wine grapes	Quantity	***	***	***
Other or unknown grapes	Quantity	***	***	***
All grape types	Quantity	***	***	***
Table grapes	Share	***	***	***
Raisin grapes	Share	***	***	***
Wine grapes	Share	***	***	***
Other or unknown grapes	Share	***	***	***
All grape types	Share	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Alternative products

As shown in table VII-5, responding firms in Argentina produced other products on the same equipment and machinery used to produce WGJC. These products include ***, and ***.

Table VII-5
WGJC: Producers' in Argentina overall capacity and production on the same equipment as subject production, by period

Quantity in 1,000 gallons; ratio and share in percent

Item	Measure	2019	2020	2021
Overall capacity	Quantity	***	***	***
WGJC production	Quantity	***	***	***
Out-of-scope production: Red grape juice	Quantity	***	***	***
Out-of-scope production: White wine	Quantity	***	***	***
Out-of-scope production: Other products	Quantity	***	***	***
Out-of-scope production: All products	Quantity	***	***	***
Total production	Quantity	***	***	***
Overall capacity utilization	Ratio	***	***	***
WGJC production	Share	***	***	***
Out-of-scope production: Red grape juice	Share	***	***	***
Out-of-scope production: White wine	Share	***	***	***
Out-of-scope production: Other products	Share	***	***	***
Out-of-scope production: All products	Share	***	***	***
Total production	Share	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Exports

According to GTA, the leading export markets for products under HS subheading 2009.69 ("Grape Juice (Including Grape Must), Nesoi, Not Fortified With Vitamins Or Minerals, Unfermented, Not Containing Added Spirit"), which includes WGJC as well as out-of-scope merchandise, from Argentina are the United States, Japan, and Canada (table VII-6). During 2021, the United States was the top export market for exports of merchandise under HS subheading 2009.69 from Argentina, accounting for 49.2 percent, followed by Japan, accounting for 20.9 percent.

Table VII-6
Grape Juice (Including Grape Must), NESOI, Not Fortified With Vitamins Or Minerals, Unfermented, Not Containing Added Spirit: Exports from Argentina, by period

Quantity in 1,000 gallons; value in 1,000 dollars

Destination market	Measure	2019	2020	2021
United States	Quantity	10,315	8,938	8,169
Japan	Quantity	3,863	3,438	3,476
Canada	Quantity	2,143	2,262	1,945
Saudi Arabia	Quantity	708	4,303	1,269
Chile	Quantity	165	330	450
China	Quantity	236	247	423
South Africa	Quantity	4,977	3,048	388
Peru	Quantity	147	27	329
Netherlands	Quantity	---	135	80
All other destination markets	Quantity	1,455	1,136	83
All destination markets	Quantity	24,009	23,864	16,613
United States	Value	56,477	46,845	47,896
Japan	Value	23,331	17,640	21,757
Canada	Value	11,181	11,006	11,336
Saudi Arabia	Value	4,088	25,161	7,502
Chile	Value	770	1,413	2,506
China	Value	1,387	1,419	2,673
South Africa	Value	24,703	13,513	1,819
Peru	Value	783	127	1,778
Netherlands	Value	---	686	447
All other destination markets	Value	6,850	5,512	455
All destination markets	Value	129,570	123,321	98,170

Table continued.

Table VII-6 Continued
Grape Juice (Including Grape Must), NESOI, Not Fortified With Vitamins Or Minerals, Unfermented, Not Containing Added Spirit: Exports from Argentina, by period

Unit value in dollars per gallon; share in percent

Destination market	Measure	2019	2020	2021
United States	Unit value	5.48	5.24	5.86
Japan	Unit value	6.04	5.13	6.26
Canada	Unit value	5.22	4.87	5.83
Saudi Arabia	Unit value	5.77	5.85	5.91
Chile	Unit value	4.67	4.28	5.57
China	Unit value	5.88	5.74	6.32
South Africa	Unit value	4.96	4.43	4.69
Peru	Unit value	5.32	4.65	5.41
Netherlands	Unit value	---	5.08	5.56
All other destination markets	Unit value	4.71	4.85	5.50
All destination markets	Unit value	5.40	5.17	5.91
United States	Share of quantity	43.0	37.5	49.2
Japan	Share of quantity	16.1	14.4	20.9
Canada	Share of quantity	8.9	9.5	11.7
Saudi Arabia	Share of quantity	3.0	18.0	7.6
Chile	Share of quantity	0.7	1.4	2.7
China	Share of quantity	1.0	1.0	2.5
South Africa	Share of quantity	20.7	12.8	2.3
Peru	Share of quantity	0.6	0.1	2.0
Netherlands	Share of quantity	---	0.6	0.5
All other destination markets	Share of quantity	6.1	4.8	0.5
All destination markets	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 2009.69 as reported by INDEC – National Institute of Statistics & Census in the Global Trade Atlas database, accessed April 6, 2022.

Note: The top export destinations, including the United States, are shown in descending order of 2021 data.

U.S. inventories of imported merchandise

Table VII-7 presents data on U.S. importers' reported inventories of WGJC. Inventories of WGJC from Argentina increased during 2019-21 by *** percent. As a ratio to U.S. imports, U.S. shipments of imports, and total shipments of imports, inventories of WGJC from Argentina increased by approximately *** percentage points during 2019-21. There were *** inventories of WGJC imported from nonsubject sources reported in 2021, and *** quantities reported in 2019 and 2021.

Table VII-7
WGJC: U.S. importers' inventories and their ratio to select items, by source and period

Quantity in 1,000 gallons; ratio in percent

Measure	Source	2019	2020	2021
Inventories quantity	Argentina	***	***	***
Ratio to imports	Argentina	***	***	***
Ratio to U.S. shipments of imports	Argentina	***	***	***
Ratio to total shipments of imports	Argentina	***	***	***
Inventories quantity	Nonsubject	***	***	***
Ratio to imports	Nonsubject	***	***	***
Ratio to U.S. shipments of imports	Nonsubject	***	***	***
Ratio to total shipments of imports	Nonsubject	***	***	***
Inventories quantity	All	***	***	***
Ratio to imports	All	***	***	***
Ratio to U.S. shipments of imports	All	***	***	***
Ratio to total shipments of imports	All	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. importers' outstanding orders

The Commission requested importers to indicate whether they imported or arranged for the importation of WGJC from Argentina and/or nonsubject sources after December 31, 2021. The data reported by the nine responding importers is presented in table VII-7

Table VII-7
WGJC: U.S. importers' arranged imports, by source and period

Quantity in 1,000 gallons

Source	Jan-Mar 2022	Apr-Jun 2022	Jul-Sept 2022	Oct-Dec 2022	Total
Argentina	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Third-country trade actions

WGJC is not known to be the subject of any trade actions in third countries.

Information on nonsubject countries

In 2020 and 2021, Spain overtook Argentina as the largest global exporter of concentrated grape juice by value. Chile's exports also increased during 2019-21 (table VII-8). Like Argentina, Spain and Chile have large winemaking industries that are capable of supplying inputs for the production of WGJC. The data in the table include both white and red grape juice concentrates. According to one Argentinian industry representative, Chile produces almost all red grape juice concentrate, while Spain produces about 70 percent white and 30 percent red.[7]

[7] Conference transcript, 196.

Table VII-8
Grape Juice (Including Grape Must), NESOI, Not Fortified With Vitamins Or Minerals, Unfermented, Not Containing Added Spirit: Global exports, by reporting country and period

Value in 1,000 dollars; share in percent

Exporting country	Measure	2019	2020	2021
United States	Value	42,431	49,612	51,803
Argentina	Value	129,570	123,321	98,170
Spain	Value	154,302	163,060	220,539
Chile	Value	51,669	55,784	80,309
Italy	Value	53,622	45,522	40,565
South Africa	Value	11,674	6,393	8,370
Netherlands	Value	6,339	6,963	6,739
Australia	Value	5,978	4,307	5,193
Austria	Value	3,709	3,697	4,534
Turkey	Value	7,261	4,836	4,331
Mexico	Value	2,244	2,787	3,907
Brazil	Value	3,652	1,447	3,697
All other exporters	Value	29,664	30,100	21,893
All reporting exporters	Value	502,116	497,830	550,049
United States	Share of value	8.5	10.0	9.4
Argentina	Share of value	25.8	24.8	17.8
Spain	Share of value	30.7	32.8	40.1
Chile	Share of value	10.3	11.2	14.6
Italy	Share of value	10.7	9.1	7.4
South Africa	Share of value	2.3	1.3	1.5
Netherlands	Share of value	1.3	1.4	1.2
Australia	Share of value	1.2	0.9	0.9
Austria	Share of value	0.7	0.7	0.8
Turkey	Share of value	1.4	1.0	0.8
Mexico	Share of value	0.4	0.6	0.7
Brazil	Share of value	0.7	0.3	0.7
All other exporters	Share of value	5.9	6.0	4.0
All reporting exporters	Share of value	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 2009.69 as reported by various national statistical authorities in the Global Trade Atlas database, accessed April 8, 2022.

Note: The top export destinations, including the United States, are shown in descending order of 2021 data.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, Federal Register notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
87 FR 20458, April 7, 2022	*White Grape Juice Concentrate From Argentina; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*	https://www.govinfo.gov/content/pkg/FR-2022-04-07/pdf/2022-07420.pdf
87 FR 24934, April 27, 2022	*White Grape Juice Concentrate From Argentina: Initiation of Less-Than-Fair Value Investigation*	https://www.govinfo.gov/content/pkg/FR-2022-04-27/pdf/2022-08951.pdf
87 FR 24945, April 27, 2022	*White Grape Juice Concentrate from the Republic of Argentina: Initiation of Countervailing Duty Investigation*	https://www.govinfo.gov/content/pkg/FR-2022-04-27/pdf/2022-08956.pdf

APPENDIX B

LIST OF STAFF CONFERENCE WITNESSES

CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

Those listed below appeared in the United States International Trade Commission's preliminary conference via videoconference:

Subject: White Grape Juice Concentrate from Argentina

Inv. Nos.: 701-TA-681 and 731-TA-1591 (Preliminary)

Date and Time: April 21, 2022 - 9:30 a.m.

FOREIGN GOVERNMENT APPEARANCE:

The Government of Argentina
Washington, DC

Minister Gustavo Lunazzi

OPENING REMARKS:

In Support of Imposition (**Julian Heron**, JPH Law, PLLC)
In Opposition to Imposition (**Eduardo Mallea**, Bruchou Fernandez Madero & Lombardi)

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

JPH Law, PLLC
Washington, DC
on behalf of

Delano Growers Grape Products

Rick Lord, General Manager, Delano Growers Grape Products

Kent Stenderup, Director, Delano Growers Grape Products

Jeff Bitter, President, Allied Grape Growers

Dave Juday, Economist, The Jaday Group

Julian Heron)
) – OF COUNSEL
Shawn Packer)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:

Bruchou Fernandez Madero & Lombardi
Buenos Aires, Argentina
on behalf of

Cepas Argentinas S.A.

Fernán Martinez, Chief Executive Officer

Juan Dileva, Chief Financial Officer

Juan Ruiz, Export Manager

Andrea Peiré, Legal Affairs Manager

Eduardo Mallea) – OF COUNSEL

INTERESTED PARTY IN OPPOSITION:

Argentinean Chamber of Grape Juice Concentrate Exporters
Mendoza, Argentina

René Alarcón, Member

REBUTTAL/CLOSING REMARKS:

In Support of Imposition (**Julian Heron**, JPH Law, PLLC)
In Opposition to Imposition (**Fernán Martinez**, Cepas Argentinas S.A.)

-END-

APPENDIX C

SUMMARY DATA

Table C-1
WGJC: Summary data concerning the U.S. market, by period

Quantity=1,000 gallons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gallon; Period changes=percent--exceptions noted

	Reported data			Period changes		
	Calendar year			Comparison years		
	2019	2020	2021	2019-21	2019-20	2020-21
U.S. consumption quantity:						
Amount	***	***	***	▼***	▼***	▼***
Producers' share (fn1)	***	***	***	▲***	▲***	▲***
Importers' share (fn1):						
Argentina	***	***	***	▼***	▼***	▼***
Nonsubject sources	***	***	***	▲***	▲***	▲***
All import sources	***	***	***	▼***	▼***	▼***
U.S. consumption value:						
Amount	***	***	***	▲***	▼***	▲***
Producers' share (fn1)	***	***	***	▲***	▲***	▲***
Importers' share (fn1):						
Argentina	***	***	***	▼***	▼***	▼***
Nonsubject sources	***	***	***	▲***	▲***	▼***
All import sources	***	***	***	▼***	▼***	▼***
U.S. importers' U.S. shipments of imports from:						
Argentina:						
Quantity	6,503	4,836	3,699	▼(43.1)	▼(25.6)	▼(23.5)
Value	50,920	37,236	33,144	▼(34.9)	▼(26.9)	▼(11.0)
Unit value	$7.83	$7.70	$8.96	▲14.4	▼(1.7)	▲16.4
Ending inventory quantity	***	***	***	▲***	▼***	▲***
Nonsubject sources:						
Quantity	***	***	***	▲***	▲***	▲***
Value	***	***	***	▲***	▲***	▲***
Unit value	***	***	***	▲***	▲***	▼***
Ending inventory quantity	***	***	***	▼***	▼***	▼***
All import sources:						
Quantity	***	***	***	▼***	▼***	▼***
Value	***	***	***	▼***	▼***	▼***
Unit value	***	***	***	▲***	▲***	▲***
Ending inventory quantity	***	***	***	▲***	▼***	▲***
U.S. producers':						
Average capacity quantity	***	***	***	▼***	▼***	***
Production quantity	***	***	***	▼***	▼***	▲***
Capacity utilization (fn1)	***	***	***	▼***	▼***	▲***
U.S. shipments:						
Quantity	***	***	***	▲***	▲***	▲***
Value	***	***	***	▲***	▲***	▲***
Unit value	***	***	***	▲***	▲***	▲***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

Table continued.

Table C-1 Continued
WGJC: Summary data concerning the U.S. market, by period

Quantity=1,000 gallons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gallon; Period changes=percent--exceptions noted

	Reported data			Period changes		
	Calendar year			Comparison years		
	2019	2020	2021	2019-21	2019-20	2020-21
U.S. producers':--continued						
Ending inventory quantity	***	***	***	▼***	▼***	▼***
Inventories/total shipments (fn1)	***	***	***	▼***	▼***	▼***
Production workers	***	***	***	***	▲***	▼***
Hours worked (1,000s)	***	***	***	▼***	▼***	▲***
Wages paid ($1,000)	***	***	***	▲***	▼***	▲***
Hourly wages (dollars per hour)	***	***	***	▲***	▲***	▲***
Productivity (gallons per hour)	***	***	***	▼***	▼***	▲***
Unit labor costs	***	***	***	▲***	▲***	▼***
Net sales:						
Quantity	***	***	***	▲***	▼***	▲***
Value	***	***	***	▲***	▲***	▲***
Unit value	***	***	***	▲***	▲***	▲***
Cost of goods sold (COGS)	***	***	***	▲***	▲***	▲***
Gross proceeds or (loss) (fn2)	***	***	***	▼***	▼***	▼***
SG&A expenses	***	***	***	▼***	▼***	▼***
Operating proceeds or (loss) (fn2)	***	***	***	▼***	▼***	▼***
Net proceeds or (loss) (fn2)	***	***	***	▼***	▼***	▼***
Unit COGS	***	***	***	▲***	▲***	▲***
Unit SG&A expenses	***	***	***	▼***	▼***	▼***
Unit operating proceeds or (loss) (fn2)	***	***	***	▼***	▼***	▼***
Unit net proceeds or (loss) (fn2)	***	***	***	▼***	▼***	▼***
COGS/sales (fn1)	***	***	***	▲***	▲***	▲***
Operating proceeds or (loss)/sales (fn1)	***	***	***	▼***	▼***	▼***
Net proceeds or (loss)/sales (fn1)	***	***	***	▼***	▼***	▼***
Capital expenditures	***	***	***	***	***	***
Research and development expenses	***	***	***	***	***	***
Net assets	***	***	***	▼***	▲***	▼***

Note.--Shares and ratios shown as "0.0" percent represent non-zero values less than "0.05" percent (if positive) and greater than "(0.05)" percent (if negative). Zeroes, null values, and undefined calculations are suppressed and shown as "---". Period changes preceded by a "▲" represent an increase, while period changes preceded by a "▼" represent a decrease.

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Percent changes only calculated when both comparison values represent profits; The directional change in profitability provided when one or both comparison values represent a loss.

Source: Compiled from data submitted in response to Commission questionnaires. 508-compliant tables containing these data are

APPENDIX D

U.S. PRODUCER'S AND FOREIGN PRODUCERS' PRODUCTION AND AVAILABILITY OF WGJC BY MONTH

Table D-1
WGJC: Count of U.S. producers that engage in the production process, by month

Month	Harvesting	Crushing	Non-frozen available	Frozen available
January	***	***	***	***
February	***	***	***	***
March	***	***	***	***
April	***	***	***	***
May	***	***	***	***
June	***	***	***	***
July	***	***	***	***
August	***	***	***	***
September	***	***	***	***
October	***	***	***	***
November	***	***	***	***
December	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table D-2
WGJC: Count of foreign producers that engage in the production process, by month

Month	Harvesting	Crushing	Non-frozen available	Frozen available
January	***	***	***	***
February	***	***	***	***
March	***	***	***	***
April	***	***	***	***
May	***	***	***	***
June	***	***	***	***
July	***	***	***	***
August	***	***	***	***
September	***	***	***	***
October	***	***	***	***
November	***	***	***	***
December	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX E

U.S. PRODUCER'S CAPACITY, PRODUCTION, CAPACITY UTILIZATION, AND END-OF-PERIOD INVENTORY DATA BY POOL YEAR AND CALENDAR YEAR

Table E-1
WGJC: U.S. producer Delano's production, capacity, and capacity utilization, by period

Quantity in 1,000 gallons; ratios in percent.

Item	Reporting basis	Measure	2019	2020	2021
Capacity	Calendar year	Quantity	***	***	***
Capacity	Pool year	Quantity	***	***	***
Production	Calendar year	Quantity	***	***	***
Production	Pool year	Quantity	***	***	***
Capacity utilization	Calendar year	Ratio	***	***	***
Capacity utilization	Pool year	Ratio	***	***	***
End-of-period inventory	Calendar year	Quantity	***	***	***
End-of-period inventory	Pool year	Quantity	***	***	***

Note: The term "pool year" coincides with Delano's fiscal year of July 1- June 30, and may also be referred to as "crush year", "vintage year" in other parts of this report.

Note: Delano's pool year capacity ***.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX F

U.S. PRODUCER'S AND U.S. IMPORTERS' U.S. SHIPMENTS BY TYPE

Table F-1
WGJC: U.S. producer Delano's U.S. shipments, by type and period

Quantity in 1,000 gallons; shares in percent

Product type	Measure	2019	2020	2021
Non-frozen	Quantity	***	***	***
Frozen	Quantity	***	***	***
All product types	Quantity	***	***	***
Non-frozen	Share of quantity	***	***	***
Frozen	Share of quantity	***	***	***
All product types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table F-2
WGJC: U.S. importers' U.S. shipments from Argentina, by type and period

Quantity in 1,000 gallons; shares in percent

Product type	Measure	2019	2020	2021
Non-frozen	Quantity	***	***	***
Frozen	Quantity	***	***	***
All product types	Quantity	***	***	***
Non-frozen	Share of quantity	***	***	***
Frozen	Share of quantity	***	***	***
All product types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table F-3
WGJC: U.S. importers' U.S. shipments from nonsubject sources, by type and period

Quantity in 1,000 gallons; shares in percent

Product type	Measure	2019	2020	2021
Non-frozen	Quantity	***	***	***
Frozen	Quantity	***	***	***
All product types	Quantity	***	***	***
Non-frozen	Share of quantity	***	***	***
Frozen	Share of quantity	***	***	***
All product types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table F-4
WGJC: U.S. producer Delano's U.S. shipments, by certification type and period

Quantity in 1,000 gallons; shares in percent

Certification type	Measure	2019	2020	2021
Organic, not kosher	Quantity	***	***	***
Organic and kosher	Quantity	***	***	***
Kosher, but not organic	Quantity	***	***	***
All other certification types	Quantity	***	***	***
All certification types	Quantity	***	***	***
Organic, not kosher	Share of quantity	***	***	***
Organic and kosher	Share of quantity	***	***	***
Kosher, but not organic	Share of quantity	***	***	***
All other certification types	Share of quantity	***	***	***
All certification types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table F-5
WGJC: U.S. importers' U.S. shipments from Argentina, by certification type and period

Quantity in 1,000 gallons; shares in percent

Certification type	Measure	2019	2020	2021
Organic, not kosher	Quantity	***	***	***
Organic and kosher	Quantity	***	***	***
Kosher, but not organic	Quantity	***	***	***
All other certification types	Quantity	***	***	***
All certification types	Quantity	***	***	***
Organic, not kosher	Share of quantity	***	***	***
Organic and kosher	Share of quantity	***	***	***
Kosher, but not organic	Share of quantity	***	***	***
All other certification types	Share of quantity	***	***	***
All certification types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table F-6
WGJC: U.S. importers' U.S. shipments from nonsubject sources, by certification type and period

Quantity in 1,000 gallons; shares in percent

Certification type	Measure	2019	2020	2021
Organic, not kosher	Quantity	***	***	***
Organic and kosher	Quantity	***	***	***
Kosher, but not organic	Quantity	***	***	***
All other certification types	Quantity	***	***	***
All certification types	Quantity	***	***	***
Organic, not kosher	Share of quantity	***	***	***
Organic and kosher	Share of quantity	***	***	***
Kosher, but not organic	Share of quantity	***	***	***
All other certification types	Share of quantity	***	***	***
All certification types	Share of quantity	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

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