Background

On December 10, 2001, the Department of Commerce (''the Department'') published in the **Federal Register** an antidumping duty order covering honey from the People's Republic of China (''PRC''). *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). The Department received timely requests from Shanghai Taiside Trading Co., Ltd. (''Taiside'') and Wuhan Shino–Food Trade Co., Ltd. (''Shino–Food''), in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on honey from the PRC, which has a December annual anniversary month and a June semi–annual anniversary month. On August 5, 2005, the Department initiated a review with respect to Taiside and Shino-Food. *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 70 FR 45367 (August 5, 2005).

The Department has issued its antidumping duty questionnaire and supplemental questionnaires to Taiside and Shino–Food. The deadline for completion of the preliminary results is currently January 30, 2006.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. *See* 19 CFR 351.214(i)(2).

Pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department determines that this review is extraordinarily complicated and that it is not practicable to complete the new shipper review within the current time limit. Specifically, the Department requires additional time to analyze all questionnaire responses and to conduct verification of the responses submitted to date. In addition, there are complicated issues surrounding the Department's calculation of normal value, particularly with respect to the valuation of raw honey. Accordingly, the Department is extending the time limit for the completion of the preliminary results by 62 days to March 31, 2006, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results, in turn, will be due 90 days after the date of issuance of the preliminary results, unless extended.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 6, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–335 Filed 1–12–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–840)

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil

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

EFFECTIVE DATE: January 13, 2006.

SUMMARY: On August 24, 2005, the Department of Commerce published its preliminary determination of sales at less than fair value (LTFV) in the antidumping duty investigation of certain orange juice from Brazil. The period of investigation (POI) is October 1, 2003, through September 30, 2004.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted–average dumping margins for the investigated companies are listed below in the section entitled ''Final Determination Margins.'' In addition, we have determined that Coinbra Frutesp S.A. (Coinbra–Frutesp) is the successor–in-interest to Frutropic S.A. (Frutropic) and, thus, its production and/or exports of frozen concentrated orange juice for further manufacture (FCOJM) are covered by the scope of this proceeding. Finally, we determine that critical circumstances exist with regard to certain exports of subject merchandise from Brazil.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Jill Pollack, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–4593, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination:

We determine that certain orange juice from Brazil is being, or is likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales of LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice. In addition, we determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of the subject merchandise produced by Sucocitrico Cutrale, S.A. (Cutrale), Montecitrus Trading S.A. (Montecitrus), and companies covered by the ''All Others'' rate. However, we determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to imports of the subject merchandise produced by Fischer S/A - Agroindustria (Fischer). Finally, we determine that Coinbra–Frutesp is the successor–in-interest to Frutropic,[1] and thus its production and exports of FCOJM are covered by the scope of this proceeding.

Case History

The preliminary determination in this investigation was published on August 24, 2005. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil*, 70 FR 49557 (Aug. 24, 2005) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred.

From August through October 2005, we verified the questionnaire responses of the two participating respondents in this case, Cutrale and Fischer.

In November 2005, we received case briefs from the petitioners,[2] Cutrale, Fischer, and an interested party to this investigation, Louis Dreyfus Citrus, Inc. (Louis Dreyfus). We also received

[1] At the time of its revocation from the order, Frutropic no longer existed as a legal entity. Rather, this company had been formally dissolved and incorporated into its parent company, Coinbra. Because this change in corporate organization was limited to a change in name only, we find that all references to Frutropic apply equally to Coinbra.

[2] The petitioners in this investigation are Florida Citrus Mutual, A. Duda & Sons, Inc. (doing business as Citrus Belle), Citrus World, Inc., and Southern Garden Citrus Processing Corporation (doing business as Southern Gardens).

rebuttal briefs in November 2005 from the petitioners, Cutrale, Fischer, Louis Dreyfus, and an additional interested party, Citrovita Agro Industrial Ltda. (Citrovita). The Department held a public hearing on November 21, 2005, at the request of the petitioners.

Period of Investigation

The period of investigation is October 1, 2003, through September 30, 2004.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated January 6, 2006, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain orange juice for transport and/or further manufacturing, produced in two different forms: (1) frozen orange juice in a highly concentrated form, sometimes referred to as FCOJM; and (2) pasteurized single–strength orange juice which has not been concentrated, referred to as not–from-concentrate (NFC). At the time of the filing of the petition, there was an existing antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil*, 52 FR 16426 (May 5, 1987). Therefore, the scope of this investigation with regard to FCOJM covers only FCOJM produced and/or exported by those companies which were excluded or revoked from the pre–existing antidumping order on FCOJ from Brazil as of December 27, 2004. Those companies are Cargill Citrus Limitada (Cargill), Coinbra–Frutesp, Cutrale, Fischer, and Montecitrus.

Excluded from the scope of the investigation are reconstituted orange juice and frozen concentrated orange juice for retail (FCOJR). Reconstituted orange juice is produced through further manufacture of FCOJM, by adding water, oils and essences to the orange juice concentrate. FCOJR is concentrated orange juice, typically at 42° Brix, in a frozen state, packed in retail–sized containers ready for sale to consumers. FCOJR, a finished consumer product, is produced through further manufacture of FCOJM, a bulk manufacturer's product. The subject merchandise is currently classifiable under subheadings 2009.11.00, 2009.12.25, 2009.12.45, and 2009.19.00 of the Harmonized Tariff Schedule of the United States (HTSUS). These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive. Rather, the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memorandum.

Successor–in-Interest

As noted above, at the time of the filing of the petition, there was an existing antidumping duty order on FCOJ from Brazil. Therefore, the scope with regard to FCOJM covers only FCOJM produced and/or exported by those companies which were excluded or revoked from the pre–existing antidumping order on FCOJ from Brazil as of December 27, 2004. Two of these entities, Frutropic and Coopercitrus Industrial Frutesp (Frutesp), were purchased by the Louis Dreyfus group in the early 1990s, and they are now producing and exporting FCOJM under the name Coinbra–Frutesp. We analyzed the corporate structure changes on the record of this proceeding and find that Coinbra–Frutesp is the successor–in-interest to Frutropic. *See* the Decision Memorandum at Comment 3. Accordingly, Coinbra–Frutesp's production/exports of FCOJM are subject to the instant investigation. Because we find that Coinbra–Frutesp is the successor–in-interest to Frutropic, a separate finding for Frutesp is unnecessary, and thus we have not analyzed this issue with respect to Frutesp.

Montecitrus

In October 1994, the Department revoked a company named Montecitrus Trading S.A. from the then–existing order on FCOJ from Brazil. *See Frozen Concentrated Orange Juice From Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review; Revocation in Part of the Antidumping Duty Order*, 56 FR 52510 (Oct. 21, 1991). However, in the instant investigation, this company entered a notice of appearance on behalf of the corporate grouping of which Montecitrus is a part (*see* the February 1, 2005, letter from Montecitrus to the Department). For this reason, we sent a questionnaire to the Montecitrus Group, and we received a response to section A of the Department's questionnaire on behalf of this entity. Subsequently, Montecitrus ceased participating in this investigation and it withdrew it business proprietary data from the record of the proceeding.

In both the initiation and the preliminary determination, we inadvertently referenced the producing company within the Montecitrus Group, Montecitrus Industria e Comercio Limitada, rather than Montecitrus Trading, as the entity subject to this proceeding. However, as part of its public section A questionnaire response, Montecitrus informed the Department that it had merged with Montecitrus Industria e Comercio Limitada. *See* page 6 of the May 2, 2005, submission from Miller and Chevalier Chartered to the Secretary of Commerce, ''Re–Bracketed Section A Questionnaire Response of Montecitrus Group.'' Because our scope specifically covers companies excluded and revoked from the order, we find that we should have referenced Montecitrus Trading S.A. as the relevant party to this proceeding in our **Federal Register** notices. We have corrected this error in the final determination. Consequently, we have instructed U.S. Customs and Border Protection (CBP) to require a cash deposit or the posting of a bond equal to the antidumping duty rate listed below for Montecitrus Trading S.A.

Use of AFA for Montecitrus

As noted in the preliminary determination, Montecitrus notified the Department on May 9, 2005, that it no longer intended to participate in the investigation. *See Preliminary Determination*, 70 FR at 49560. Section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

In the instant investigation, by withdrawing its information from the record, the Department found that, pursuant to section 776(a)(2)(A) of the Act, Montecitrus withheld requested information. Further, pursuant to section 776(a)(2)(B) of the Act, the Department determined that Montecitrus failed to provide the information requested by the Department within the established deadlines. Finally, by withdrawing from the investigation and ceasing to participate in the proceeding, the Department found that, pursuant to section 776(a)(2)(C) of the Act, Montecitrus significantly impeded the investigation. Consequently, pursuant to sections 776(a)(2)(A)-(C) of the Act, the Department continues to find that the application of facts otherwise available to Montecitrus is warranted for the final determination.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). To examine whether the respondent cooperated by acting to the best of its ability under section 776(b) of the Act, the Department considers, inter alia, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon Quality Steel Products From Brazil*, 65 FR 5554, 5567 (Feb. 4, 2000). In the instant investigation, by ceasing to participate in the investigation, Montecitrus decided not to cooperate and thus did not act to the best of its ability to comply with a request for information. Consequently, we find that an adverse inference is warranted in determining an antidumping duty margin for Montecitrus.

Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, a final investigation determination, a previous administrative review, or any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner. *See, e.g., Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances*, 67 FR 55792 (Aug. 30, 2002); *Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less than Fair Value*, 63 FR 8909 (Feb. 23, 1998). The Department applies AFA ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action* accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol. 1, at 870 (1994) (SAA).

In accordance with our standard practice, as AFA, we are assigning Montecitrus a rate which is the higher of: (1) the highest margin stated in the notice of initiation (*i.e.*, the recalculated petition margin); or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Sweden*, 70 FR 28278 (May 17, 2005). In this case, the final AFA margin is 60.29 percent, which is the highest margin stated in the notice of initiation. *See Initiation Notice*, 70 FR at 7236. We find that this rate is sufficiently high as to effectuate the purpose of the facts available rule (*i.e.*, to encourage participation in future segments of this proceeding).

Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* 19 CFR 351.308(c) and (d); *see also* the SAA at 870.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this final determination, we relied on our analysis from the preliminary determination. See Preliminary Determination, 70 FR at 49560–49561. Based on this analysis, we determined that the petition price and cost information has probative value. Accordingly, we find that the highest margin stated in the notice of initiation, 60.29 percent, is corroborated within the meaning of section 776(c) of the Act.

Critical Circumstances

In our preliminary determination, we found that critical circumstances existed for all mandatory respondents and companies subject to the ''All Others'' rate. *See Preliminary Determination*, 70 FR at 49565–49566. We received comments on our critical circumstances determination from Fischer and the petitioners.

Section 735(a)(3) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (i.e., the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to

the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above statutory criteria have been satisfied, we examined: (1) the evidence placed on the record by the respondents and the petitioners; (2) information obtained from the USITC dataweb; and (3) the ITC's preliminary determination of injury (*See Certain Orange Juice from Brazil, Investigation No. 731–TA–1089* (*Preliminary*), 70 FR 20595 (Apr. 20, 2005) (*ITC Preliminary Determination*)).

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 735(a)(3)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (Nov. 27, 2000). With regard to imports of certain orange juice from Brazil, the petitioners' claim that the pre–existing order on FCOJ from Brazil should be considered to be a history of dumping. However, we disagree that order demonstrates a history of dumping of subject merchandise because there is no overlap in the scope of that order and this proceeding. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Brazil pursuant to section 735(a)(3)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price (CEP) transactions sufficient to impute knowledge of dumping. *See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (Oct. 19, 2001). Both Cutrale and Fischer made only CEP sales during the POI. The final dumping margin calculated for Cutrale exceeded the threshold sufficient to impute knowledge of dumping (*i.e.*, 15 percent for CEP sales), while the final dumping margin calculated for Fischer did not. Therefore, we determine that there is sufficient basis to find that importers should have known that Cutrale was selling the subject merchandise at LTFV pursuant to section 735(a)(3)(A)(ii) of the Act. However, there is an insufficient basis to find that importers should have known that Fischer was selling the subject merchandise at less than its fair value pursuant to section 735(a)(3)(A)(ii) of the Act. Regarding Montecitrus, we find that importers of subject merchandise produced by this company knew or should have known that this company was selling the subject merchandise at LTFV because the final dumping margin for it exceeds the threshold sufficient to impute knowledge of dumping.

In determining whether an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. *See Final Determination of Sales at Less Than Fair Value: Certain Cut–To-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (Nov. 20, 1997). In the present case, the ITC preliminarily found reasonable indication that an industry in the United States is materially injured by imports of certain orange juice from Brazil. *See ITC Preliminary Determination*. Based on the ITC's preliminary determination of injury, and the final antidumping margins for Cutrale and Montecitrus, the Department finds that there is a reasonable basis to conclude that the importer knew or should have known that there was likely to be injurious dumping of subject merchandise for these companies.

Regarding the companies subject to the ''All Others'' rate, it is the Department's normal practice to conduct its critical circumstances analysis for these companies based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey*, 62 FR 9737, 9741 (Mar. 4, 1997). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''All Others'' rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the ''All Others'' rate. Consistent with *Stainless Steel from Japan*, the Department has, in this case, applied the traditional critical circumstances criteria to the ''All Others'' category for the antidumping investigation of certain orange juice from Brazil.

In determining whether there is a reasonable basis to believe or suspect that importers knew or should have known that companies subject to the ''All Others'' rate were selling certain orange juice from Brazil at LTFV, we look to the ''All Others'' dumping margin, which is based on the weighted–average rate of all investigated companies where the margin is not based on adverse facts available. The dumping margin for the ''All Others'' category in the instant case exceeds the 15 percent threshold necessary to impute knowledge of dumping. Therefore, we find that importers had knowledge that companies covered by the ''All Others'' rate were dumping subject merchandise in the United States during the POI, and that the importer knowledge criterion, as set forth in section 735(a)(3)(A)(ii) of the Act, has been met for the ''All Others'' companies. Based on the ITC's preliminary determination of injury, and the final antidumping margin for companies subject to the ''All Others'' rate, the Department finds that there is a reasonable basis to conclude that the importer knew or should have known that there was likely to be injurious dumping of subject merchandise for these companies.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 735(a)(3)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). Accordingly, in determining whether imports of the subject merchandise have been massive, we have based our analysis for Cutrale and the companies covered by the ''All Others'' rate on shipment data for comparable six-month periods preceding and following the filing of the petition.

In determining whether imports for Cutrale were massive under 19 CFR 351.206(h), we note that we were unable

to verify Cutrale's company–specific data. Because Cutrale submitted information that could not be verified, the Department finds that, pursuant to section 776(a)(2)(D) of the Act, it is appropriate to use facts available (FA) in reaching our final determination regarding critical circumstances for Cutrale. Further, because Cutrale did not act to the best of its ability to comply with a request for information, we find that an adverse inference in selecting from the facts otherwise available is warranted. As AFA, we have relied on Cutrale's reported monthly shipment data for the base and comparison periods because this data shows Cutrale's imports of the subject merchandise were massive in accordance with section 735(a)(3)(B) of the Act.

Regarding Montecitrus, we find that Montecitrus's withdrawal from the instant investigation precluded the Department from soliciting company–specific import data. Thus, we have based our determination of whether imports for Montecitrus were massive on AFA and find that imports for Montecitrus were massive in accordance with section 735(a)(3)(B) of the Act.

In determining whether imports for the companies subject to the ''All Others'' rate were massive, we examined USITC dataweb data for a six-month period (*i.e.*, January to June 2005) adjusted to exclude Cutrale's and Fischer's company–specific data for the same period. Because the volume of imports increased by more than 15 percent from January to June 2005 when compared to the import volume in the base period, we find that imports for the companies subject to the ''All Others'' rate were massive in accordance with section 735(a)(3)(B) of the Act.

In making our critical circumstances determination, we also considered the impact of seasonality on imports of certain orange juice. We noted in our preliminary affirmative determination of critical circumstances that imports of certain orange juice are not subject to seasonal trends. *See* the August 16, 2005, memorandum from Louis Apple to Barbara E. Tillman entitled, ''Antidumping Duty Investigation of Certain Orange Juice from Brazil - Affirmative Preliminary Determination of Critical Circumstances.'' Because no interested parties have raised issues of seasonality subsequent to our preliminary determination, we have not revisited our analysis with regard to this issue. Consequently, we find that any surge in U.S. imports of certain orange juice cannot be explained by seasonal trends.

Based on the fact that: 1) we find that knowledge of dumping exists with regard to Cutrale, Montecitrus, and the companies subject to the ''All Others'' rate; and 2) there have been massive imports of certain orange juice which cannot be accounted for by seasonal trends for these parties, we find that critical circumstances exist with regard to imports of certain orange juice from Brazil for Cutrale, Montecitrus, and companies subject to the ''All Others'' rate. However, because we do not find knowledge of dumping with regard to Fischer, we find that critical circumstances do not exist for this company.

For further discussion, see the Decision Memorandum at Comment 4 and the January 6, 2006, memorandum to Irene Darzenta Tzafolias, Acting Director, Office 2, from the team entitled, ''Antidumping Duty Investigation of Certain Orange Juice from Brazil – Final Determination of Critical Circumstances.''

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Cutrale and Fischer for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of entries of certain orange juice from Brazil produced and/or exported by Cutrale, Montecitrus, and companies subject to the ''All Others'' rate that are entered, or withdrawn from warehouse, for consumption on or after May 26, 2005, 90 days prior to the date of publication of the preliminary determination in the **Federal Register**. However, because we find that critical circumstances do not exist with regard to imports of certain orange juice from Brazil produced and/or exported by Fischer, we will instruct CBP to terminate the retroactive suspension of liquidation for Fischer between May 26, 2005, and August 24, 2005 (the date of publication of the preliminary determination). CBP shall continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We will also instruct CBP that, for NFC, the ''All Others'' rate applies to all companies not specifically named in the ''Final Determination Margins'' section, below, including Coinbra–Frutesp. However, for FCOJM, the ''All Others'' rate only applies to FCOJM produced and/or exported by Cargill. CBP shall not suspend entries of FCOJM from companies other than Cargill, Cutrale, Fischer, and Montecitrus at this time.

Regarding Coinbra–Frutesp, this notice serves as notification to the ITC that Coinbra–Frutesp's production/exports of FCOJM are part of the class or kind of merchandise under investigation. Consequently, we anticipate that the ITC will include these exports in its final injury determination. If the ITC's final determination is affirmative, we will instruct CBP to begin suspending liquidation of any entries of FCOJM produced and/or exported by Coinbra–Frutesp after the date of publication of that determination.

Final Determination Margins

The weighted–average dumping margins are as follows:

Exporter/Manufacturer	Weighted–Average Margin Percentage	Circumstances Critical
Fischer S/A - Agroindustria	9.73	No
Montecitrus Trading S.A.	60.29	Yes
Sucocitrico Cutrale, S.A.	19.19	Yes
All Others	15.42	Yes

In accordance with section 735(c)(5)(A) of the Act, we have based the ''All Others'' rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The ''All Others'' rate is calculated exclusive of all de minimis margins and margins based entirely on AFA.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: January 6, 2006.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix Issues in the Decision Memo

Comments

1. Legal Authority to Initiate This Proceeding
2. Scope ''Clarification''
3. Successor–in-Interest Determination for Coinbra–Frutesp S.A. (Coinbra–Frutesp)
4. Critical Circumstances
5. Refunds of U.S. Customs Duties
6. Data Changes Arising from the Sales Verifications
7. Treatment of By–Products
8. Trading Gains and Losses on Cutrale's Futures Contracts
9. Offset to Indirect Selling Expenses for Futures Trading Gains and Losses for Cutrale
10. Constructed Export Price (CEP) Offset for Cutrale
11. International Freight Expenses for Cutrale
12. Fischer's Unreported U.S. Sales to Puerto Rico
13. Packing Services Provided by an Affiliate of Fischer
14. U.S. Duty Reimbursements for Fischer
15. Bunker Fuel Adjustments for Fischer
16. Home Market Credit Expenses for Fischer
17. Indirect Selling Expense Ratio for Fischer
18. AFA for Montecitrus
19. Clerical Errors in the Preliminary Determination for Cutrale
20. Growing Season for Cutrale
21. Data Changes Arising from the Cutrale Cost Verification
22. By–Product Adjustment Associated with Cutrale's Non–Orange Fruit Inputs
23. Non–Product Specific Costs for Fischer
24. General and Administrative (G&A) Expenses for Fischer
25. Brix Level for Fischer's Dairy Pak Orange Juice
26. Harvesting Costs for Fischer
27. Undervalued Orange Cost for Fischer
28. Finished Goods ''Purchased'' from One of Fischer's Affiliates

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DEPARTMENT OF COMMERCE.

International Trade Administration

[A–570–832]

Pure Magnesium from the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: January 13, 2006.

FOR FURTHER INFORMATION CONTACT: Joe Freed or Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3818 or (202) 482–6478, respectively.

Background

On May 2, 2005, the Department of Commerce (''the Department'') published in the **Federal Register** a notice for an opportunity to request an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (''PRC''). *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 22631 (May 2, 2005). As a result of a request for a review filed by Tianjin Magnesium International Co., Ltd. (''TMI'') on May 26, 2005, the Department published in the **Federal Register** a notice of initiation of an administrative review for the period May 1, 2004, through April 30, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749 (June 30, 2005). The preliminary results of review are currently due no later than January 31, 2006.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue preliminary results within 245 days after the last day of the anniversary month of an order. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time period to a maximum of 365 days. Completion of the preliminary results of this review within the 245-day period is not practicable because the Department needs additional time to analyze information pertaining to the respondent's sales practices, factors of production, and corporate relationships, and to issue and review responses to supplemental questionnaires.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of review by 60 days until April 1, 2006, in accordance with section 751(a)(3)(A) of the Act. Further, because April 1, 2006, falls on a Saturday, the preliminary results will be due on April 3, 2006, the next business day. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published pursuant to sections 751(a) and 777(i) of the Act.

Dated: January 9, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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