Comment 29: Inventory Carrying Costs for Direct Shipments
Comment 30: Financial Ratios
Comment 31: Unreported Sales
Comment 32: Credit Expenses and Inventory Carrying Costs
Comment 33: Nanjing Nanmu
Comment 34: Labor

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–840]

Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part

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

DATES: *Effective Date:* August 18, 2010.

SUMMARY: On April 13, 2010, the Department of Commerce published its preliminary results of the administrative review of the antidumping duty order on certain orange juice from Brazil. This review covers two producers/exporters of the subject merchandise to the United States. The period of review (POR) is March 1, 2008, through February 28, 2009.

After analyzing the comments received, we have made certain changes in the margin calculations. Therefore, these final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

Finally, we have determined not to revoke the antidumping duty order with respect to certain orange juice from Brazil produced and exported by Sucocitrico Cutrale, S.A. (Cutrale).

FOR FURTHER INFORMATION CONTACT: Hector Rodriguez or Blaine Wiltse, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0629 or (202) 482–6345, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 13, 2010, the Department published in the **Federal Register** the preliminary results of administrative review of the 2008–2009 antidumping duty order on certain orange juice from Brazil. *See Certain Orange Juice from Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part,* 75 FR 18794 (Apr. 13, 2010) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. In May 2010, we received case and rebuttal briefs from the petitioners (*i.e.,* Florida Citrus Mutual, A. Duda & Sons, Citrus World Inc., and Southern Gardens Citrus Processing Corporation). We also received case briefs from both respondents (*i.e.,* Fischer S.A. Comercio, Industria, and Agricultura (Fischer) and Cutrale).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The scope of this order 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 frozen concentrated orange juice for manufacture (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 order 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, Coinbra-Frutesp (SA), Cutrale, Fischer, and Montecitrus Trading S.A.

Excluded from the scope of the order 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 the order is dispositive.

Period of Review

The POR is March 1, 2008, through February 28, 2009.

Determination Not To Revoke Order, In Part

The Department may revoke, in whole or in part, an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia,* that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than normal value (NV) in the current review period and that the company will not sell subject merchandise at less than NV in the future; (2) a certification that the company sold commercial quantities of the subject merchandise to the United States in each of the three years forming the basis of the request; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider: (1) Whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV; and (3) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping. *See* 19 CFR 351.222(b)(2)(i).

As we noted in the *Preliminary Results,* on March 31, 2009, Cutrale requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(b). This request was accompanied by certification that: (1) Cutrale sold the subject merchandise at not less than NV during the current POR and will not sell the merchandise at less

than NV in the future; and (2) it sold subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. Cutrale also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the revocation, it sold the subject merchandise at less than NV. *See Preliminary Results,* 75 FR at 18795.

After analyzing Cutrale's request for revocation, we find that it does not meet all of the criteria under 19 CFR 351.222(b). In this case, our margin calculation shows that Cutrale sold the subject merchandise at less than NV during the current review period. *See* "Final Results of the Review" section below. Moreover, Cutrale also sold the subject merchandise at less than NV in the 2007–2008 administrative review. *See Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review,* 74 FR 40167 (Aug. 11, 2009). Therefore, we determine that Cutrale does not qualify for revocation of the order on certain orange juice pursuant to 19 CFR 351.222(b)(2), and as a result we have not revoked the order with respect to merchandise produced and exported by Cutrale. For further discussion, see the Issues and Decision Memorandum (the Decision Memo) at Comment 6.

Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether Cutrale and Fischer made home market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b) of the Act. *See Preliminary Results.* For these final results, we performed the cost test following the same methodology as in the *Preliminary Results,* except as discussed in the Decision Memo.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(1) and (2) of the Act.

Therefore, for purposes of these final results, we found that Cutrale and Fischer made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales (if any) as the basis for determining NV, pursuant to section 773(b)(1) of the Act. Where there were no home market sales made in the ordinary course of trade, we based NV on constructed value.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes to the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

Final Results of Review

We determine that the following weighted-average margin percentages exist for the period March 1, 2008, through February 28, 2009:

Manufacturer/exporter	Percent margin
Fischer S.A. Comercio, Industria, and Agricultura	5.26
Sucocitrico Cutrale, S.A	8.13

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.

We have calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate is above *de minimis* (*i.e.,* less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of certain orange juice from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.51 percent, the all-others rate established in the LTFV investigation. *See Antidumping Duty Order: Certain Orange Juice from Brazil,* 72 FR 12183 (Mar. 9, 2006). These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent

assessment of double antidumping duties.

Notification to Interested Parties

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 these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: Dated: August 11, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Offsetting of Negative Margins
2. Capping of Certain Revenues Received by Cutrale by the Amount of Reported Expenses
3. Clerical Error in Cutrale's Dumping Margin
4. Use of Actual Brix to Calculate the Prices and Quantities for Cutrale's U.S. Sales
5. Use of Actual Brix for Comparison Purposes for Cutrale's Home Market Sales
6. Request for Revocation by Cutrale
7. Constructed Export Price Offset for Cutrale
8. Cutrale's Cost of Oranges from Affiliated Parties
9. Cutrale's By-Product Revenue Offset to Cost of Goods Sold (COGS)
10. Cutrale's Other Adjustments to COGS to Reflect Adjustments to the Cost of Manufacture
11. Fischer's International Freight Expenses
12. Net Exchange Variation for Fischer
13. Fischer's Intercompany Interest Expenses
14. Offset to Intercompany Interest Expenses for Fischer's Financial Expenses
15. Market Prices for the Sale of Certain By-Products for Fischer
16. Fischer's Unrealized and Eradication Expenses

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper and Grouper Off the Southern Atlantic States

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Gulf and South Atlantic Fisheries Foundation, Inc. If granted, the EFP will authorize the applicants, with certain conditions, to collect limited numbers of fish and invertebrates where possession and retention is restricted or prohibited by regulations in South Atlantic Federal waters. This study is intended to characterize catch and discard mortality within the South Atlantic commercial hook-and-line snapper-grouper fishery.

DATES: Comments must be received no later than 5 p.m., eastern time, on September 17, 2010.

ADDRESSES: You may submit comments on the application by any of the following methods:

- E-mail: *Steve.Branstetter@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "FND__EFP".
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5308.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305; fax: 727–824–5308; e-mail: *Steve.Branstetter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The described research is part of the Cooperative Research Program. The Cooperative Research Program is a means of involving commercial and recreational fishermen in the collection of fundamental fisheries information. Resource collection efforts support the development and evaluation of fisheries management and regulatory options.

The proposed collection for scientific research involves activities otherwise prohibited by regulations at 50 CFR 622 implementing the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. The applicant requires authorization to collect limited numbers of snapper and grouper and other marine resources, where possession and retention is otherwise restricted or prohibited by regulations, for scientific research activities for a 24–month period beginning September 2010. Specimens would be collected from Federal waters off the east coast of Florida and Federal waters off the coasts of Georgia, South Carolina, and North Carolina. Sampling would occur during normal fishing operations of the commercial snapper-grouper vertical hook-and-line fishery. Sampling would occur year-round, collecting as many as 500 fish during the course of the sampling. Data collections for this study would support improved information about the catch, bycatch, discards, and discard mortality for species in the snapper-grouper complex. These data would provide insight on a stock's resilience to fishing, and would help refine estimates of long-term biological productivity of the stocks. Currently, these data are unavailable, and it is anticipated that project results would yield valuable data within this fishery.

NMFS finds this application warrants further consideration. Based on a preliminary review, NMFS intends to issue an EFP. The limited sampling program and associated sampling methodology listed in the EFP is not expected to impact the fishery stocks; the estimated 500 fish to be retained in the 2–year period represents a small fraction of the average annual landings. Similarly, the sampling program is not expected to have an impact on marine mammals or threatened or endangered species or their critical habitat in any manner that has not been considered in the 2006 biological opinion, the 2007 consultation regarding *Acropora*, and the 2008 listing of *Acropora* critical habitat, in regard to the existing fishery management plan. The biological opinion specifically addresses the impacts associated with EFPs. It considers fishing activities authorized under an EFP within the scope of the opinion, if those activities do not significantly increase the overall fishing effort within the fishery, and fishing is conducted by commercial or research vessels, using similar or identical