

issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, deposit rates above *de minimis* levels continue in effect for all shipments of the subject merchandise from Argentina.<sup>2</sup> Therefore, absent argument and evidence to the contrary, given that shipments of the subject merchandise ceased soon after the issuance of the order, that dumping margins continue to exist, and that respondent interested parties have waived their right to participate in this review before the Department, we determine that, consistent with Section II.A.3 of the *Sunset Policy Bulletin*, dumping is likely to continue or recur if the order were revoked.

### Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published a weighted-average dumping margin for one Argentine manufacturer/exporter, Acindar Industria Argentina de Aceros S.A. ("Acindar") (50 FR 38563, September 23, 1985). The Department also published an "all others" rate in this same **Federal Register** notice. With respect to duty absorption findings, because there have been no completed administrative reviews of the order, the Department has not had the opportunity to address the issue of duty absorption.

In its substantive response, the domestic interested parties state that the weighted-average dumping margin calculated by the Department for Acindar in the original investigation is the dumping margin likely to prevail if the order were revoked (see January 4, 1999 Substantive Response of the

Domestic Interested Parties at 4). The domestic interested parties make this statement because this order has never undergone an administrative review and the dumping margin from the original investigation provides the best evidence of the likely dumping margin in the absence of the order.

The Department agrees with the domestic interested parties' argument concerning the choice of the margin rate to report to the Commission. An examination of the margin history of the order as well as an examination of import statistics of the subject merchandise, as provided in U.S. Department of Commerce Trade Statistics data, confirms that dumping margins have existed throughout the life of the order and that imports of the subject merchandise ceased soon after its imposition.

The Department finds the margin from the original investigation is the only calculated rate that reflects the behavior of exporters without the discipline of the order. Therefore, consistent with the *Sunset Policy Bulletin*, we determine that the margin calculated in the Department's original investigation is probative of the behavior of Argentine producers and exporters of barbed wire and barbless fencing wire if the order were revoked. We will report to the Commission the company-specific and "all others" rate from the original investigation contained in the *Final Results of Review* section of this notice.

### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Acindar .....	69.02
All Others .....	69.02

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 of the Department's regulations. Timely 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.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 1, 1999.

**Robert S. LaRussa,**  
Assistant Secretary for Import  
Administration.

[FR Doc. 99-8625 Filed 4-6-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-605]

### Final Results of Expedited Sunset Review: Frozen Concentrated Orange Juice from Brazil

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

**ACTION:** Notice of Final Results of Expedited Sunset Review: Frozen Concentrated Orange Juice (FCOJ) from Brazil.

**SUMMARY:** On December 2, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on frozen concentrated orange juice from Brazil (63 FR 66527) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of the Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-3207 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** April 7, 1999.

### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues

<sup>2</sup> See *Barbed wire and Barbless Fencing Wire from Argentina: Final Determination of Sales at Less Than Fair Value*, 50 FR 38563 (September 23, 1985) and *Antidumping Duty Order: Barbed Wire and Barbless Fencing Wire from Argentina*, 50 FR 46808 (November 13, 1985).

relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

### Scope

The merchandise subject to this antidumping order is frozen concentrated orange juice from Brazil.<sup>1</sup> Such merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 2009.11.00. The HTS item number is provided for convenience and Customs purposes only. The written description remains dispositive.

This review covers imports from all manufacturers and exporters of frozen concentrated orange juice from Brazil, other than imports produced by Sucocitrico Cutrale, S.A., which was excluded from the order (52 FR 16426, May 5, 1987), as well as Cargill Citrus Ltda, Citrosuco Paulista S.A., Coopercitrus Industrial Frutesp S.A., and Montectirus Trading S.A., for which the order was revoked (56 FR 52510, October 21, 1991) and Frutropic, for which the order was also revoked (59 FR 53137, October 21, 1994).

### Background

On December 2, 1998, the Department initiated a sunset review of the antidumping order on frozen concentrated orange juice from Brazil (63 FR 66527), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Florida Citrus Mutual, Caulkins Indiantown Citrus Co., Citrus Belle, Citrus World, Inc., Orange Co. of Florida, Inc., Peace River Citrus Products, Inc., and Southern Gardens Citrus Processors Corp. (collectively "the domestic interested parties") on December 17, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Pursuant to 19 USC § 1677(9)(G)(iii), the domestic interested parties claimed interested party status as a coalition representative of growers and processors of oranges and orange juice. In addition, Florida Citrus Mutual, a trade association representing growers of oranges used in the production of FCOJ, was the original petitioner in the antidumping duty investigation of FCOJ from Brazil. We received a complete substantive

response from the domestic interested parties on January 4, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order. On February 8, 1999, the domestic interested parties submitted a copy of the preliminary results of the latest administrative review of FCOJ from Brazil, covering the period between May 1, 1997 and April 30, 1998.<sup>2</sup>

### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

### Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that

determinations of likelihood will be made on an order-wide basis (see section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to guidance on likelihood provided in the *Sunset Policy Bulletin* and legislative history, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

The antidumping order on FCOJ from Brazil was published in the **Federal Register** on May 5, 1987 (52 FR 16426). Since that time, the Department has conducted several administrative reviews.<sup>3</sup> On October 21, 1991, the Department revoked the order with respect to imports produced by Cargill Citrus Ltda, Citrosuco Paulista S.A., Coopercitrus Industrial Frutesp S.A., and Montectirus Trading S.A. (56 FR 52510, October 21, 1991). On October 21, 1994, the Department also revoked

<sup>3</sup> See *Frozen Concentrated Orange Juice from Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 26721 (June 29, 1990); *Frozen Concentrated Orange Juice from Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review*, 55 FR 47502 (November 14, 1990); *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 (October 21, 1991); *Frozen Concentrated Orange Juice from Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review*, 57 FR 12910 (April 14, 1992); *Frozen Concentrated Orange Juice from Brazil; Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part*, 59 FR 53137 (October 21, 1994); *Notice of Final Results of Antidumping Duty Administrative Review: Frozen Concentrated Orange Juice from Brazil*, 62 FR 5798 (February 7, 1997); *Frozen Concentrated Orange Juice from Brazil; Final Results of Antidumping Duty Administrative Review*, 62 FR 29328 (May 30, 1997); *Frozen Concentrated Orange Juice from Brazil; Final Results of Antidumping Duty Administrative Review*, 63 FR 26145 (May 12, 1998).

<sup>1</sup> Pulpwash, a by-product of FCOJ which is composed of water-extracted soluble orange solids, was found to be outside of the scope of the order (55 FR 26721, June 29, 1990).

<sup>2</sup> See *Frozen Concentrated Orange Juice from Brazil; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 64 FR 5767 (February 5, 1999).

the order for Frutropic (59 FR 53137, October 21, 1994). The order remains in effect for all other manufacturers and exporters of the subject merchandise.

In its substantive response, the domestic interested parties argued that the actions taken by producers and exporters of FCOJ during the life of the order indicate that the likely effect of revocation of the order in this case would be that dumping of FCOJ would continue or resume, and that margins would increase (see Substantive Response of the Domestic Interested Parties, January 4, 1999, at 3). With respect to whether dumping continued at any level above de minimis after the issuance of the order, the domestic interested parties stated that while there have been determinations of de minimis or zero margins for certain producers in the past, in the current administrative review (covering entries during the period June 1997–May 1998), the Department has found enough evidence of sales in home or third country markets below cost of production of FCOJ to initiate a cost investigation (see Substantive Response of the Domestic Interested Parties, January 4, 1999, at 4–5).

With respect to whether imports of the subject merchandise ceased after the issuance of the order, the domestic interested parties maintained that since FCOJ is a commodity product, the fact that import volumes have risen or declined in absolute terms since the imposition of the order is of lesser probative value (*see id.*). They went on to argue that agricultural commodities, such as FCOJ, require additional analysis, due to the perishable nature of the article and its production cycles (*see id.*).

In conclusion, the domestic interested parties argued that the Department should determine that there is a likelihood that dumping would continue were the order revoked because dumping margins have existed throughout the life of the order for some Brazilian exporters/producers of FCOJ.

As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. A dumping margin above de minimis continues to exist for shipments of the subject merchandise from Branco Peres Citrus S.A.<sup>4</sup>

Consistent with section 752(c) of the Act, the Department also considers the volume of imports before and after issuance of the order. The Department's statistics on imports of FCOJ from Brazil between 1985 and 1998, demonstrate that in 1987, the year the order was imposed, imports of FCOJ fell sharply (from approximately 2.2 billion liters in 1986 to approximately 2 million liters in 1987).<sup>5</sup> Since the imposition of the order, imports of FCOJ have not reached the pre-order level; however, imports of subject merchandise have not consistently decreased either.

As noted above, in conducting its sunset reviews, the Department considers the weighted-average dumping margins and volume of imports when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. Based on this analysis, the Department finds that the existence of dumping margins above de minimis levels after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Therefore, the Department finds no reason to consider the domestic interested parties' argument that additional analysis is required for antidumping orders on agricultural products. A deposit rate above a de minimis level continues in effect for exports of the subject merchandise by at least one known Brazilian manufacturer/exporter. Therefore, given that dumping has continued over the life of the order, respondent interested parties waived participation in this sunset review, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

#### Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption

determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value ("LTFV"), published a weighted-average dumping margin for one Brazilian producer/exporter, Citrosuco Paulista, of frozen concentrated orange juice (52 FR 8324, March 17, 1987). As discussed above, the order with respect to Citrosuco Paulista has been revoked. The final LTFV determination also contained an "all others" rate. We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, the domestic interested parties recommended that the Department deviate from its stated policy of selecting rates from the original investigation. Specifically, the domestic interested parties suggested that, because it is a commodity product, FCOJ should not be treated as other industrial products, where pricing may vary considerably from one producer to another. Rather, they suggested that current market conditions will dictate the level of dumping if there were no order. Therefore, the domestic interested parties requested that the Department apply the new, higher, dumping margin of 65.2 percent found in the preliminary results and partial rescission of the most recent antidumping duty administrative review (64 FR 5767, February 5, 1999).

Because the results of the ongoing administrative review have not yet been finalized, the Department believes it is not appropriate to rely on those results for the purpose of this determination. Further, we note that, although FCOJ is a commodity product, the magnitude of any margin of dumping is determined based on factors other than market price alone, for example, cost of production. Therefore, absent persuasive evidence to the contrary, the Department continues to believe that as noted in the *Sunset Policy Bulletin*, the margins from the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

The Department finds no reason to deviate from its stated policy of reporting the margins from the original investigation. The Department finds the margins calculated in the original investigation are probative of the behavior of Brazilian producers/exporters if the order were revoked as they are the only margins which reflect their actions absent the discipline of the order. Therefore, the Department will report to the Commission all others rate from the original investigation as

<sup>4</sup> See *Frozen Concentrated Orange Juice From Brazil: Final Results of Antidumping*

*Administrative Review*, 63 FR 26145 (May 12, 1998).

<sup>5</sup> See U.S. Census Bureau Report IM146.

contained in the *Final Results of Review* section of this notice. The Department has not reported the calculated margin for Citrosuco Paulista, S.A., the only company with a calculated margin in the investigation, because the order with respect to Citrosuco Paulista has been revoked.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
All Others .....	1.96

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 of the Department's regulations. Timely 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.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 1, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-8618 Filed 4-6-99; 8:45 am]

BILLING CODE 3510-DS-P

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-469-007]

#### Final Results of Expedited Sunset Review: Potassium Permanganate from Spain

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

**ACTION:** Notice of Final Results of Expedited Sunset Review: Potassium Permanganate from Spain.

**SUMMARY:** On November 2, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on potassium permanganate from Spain (63 FR 58709) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On

the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

#### FOR FURTHER INFORMATION CONTACT:

Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** April 7, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

#### Scope

The merchandise subject to this antidumping order is potassium permanganate from Spain, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is classifiable under item 2841.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and U.S. Customs purposes. The written description remains dispositive.

This review covers imports from all manufacturers and exporters of Spanish potassium permanganate.

#### Background

On November 2, 1998, the Department initiated a sunset review of the antidumping order on potassium permanganate from Spain (63 FR 58709), pursuant to section 751(c) of the

Act. The Department received a Notice of Intent to Participate on behalf of Carus Chemical Company ("Carus") on November 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Carus claimed interested party status under 19 U.S.C. 1677(9)(C) as a U.S. producer of potassium permanganate. In addition, Carus indicated that it was the original petitioner in this proceeding and that it has regularly participated in all administrative reviews. We received a complete substantive response from Carus on December 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day review of this order.

The Department determined that the sunset review of the antidumping duty order on potassium permanganate from Spain is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (See section 751(c)(6)(C) of the Act.) Therefore, on March 2, 1999, the Department extended the time limit for completion of the final results of this review until not later than June 1, 1999, in accordance with section 751(c)(5)(B) of the Act.<sup>1</sup>

#### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the

<sup>1</sup> See *Potassium Permanganate from Spain and the People's Republic of China: Extension of Time Limit for Final Results of Five-Year Review*, 64 FR 10991 (March 8, 1999).