

("Decision Memorandum") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 1, 2001, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the order revoked. 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 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>, under the heading "October 2001." The paper copy and electronic version of the Decision Memorandum are identical in content.

### Final Results of Review

We determine that revocation of the antidumping duty order on clad steel plate from Japan would likely head to continuation or recurrence of dumping at the following percentage weighted-average margins:

| Manufacturer/exporter         | Margin (percent) |
|-------------------------------|------------------|
| The Japan Steel Company ..... | 118.53           |
| All Others .....              | 118.53           |

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: October 1, 2001.

**Joseph A. Spetrini,**  
Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-605]

### Frozen Concentrated Orange Juice from Brazil; Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On June 4, 2001, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil (66 FR 29330). This review covers four manufacturers/exporters of the subject merchandise to the United States. This review covers the period May 1, 1999, through April 30, 2000.

Based on our analysis of the comments received, we have not made changes in the margin calculations. Therefore, the final results do not differ from the preliminary results. We have determined to rescind the review with respect to Branco Peres Citrus S.A., CTM Citrus S.A., and Sucorrico S.A. because they had no shipments of subject merchandise to the United States during the period of review. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** October 5, 2001.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0656 or (202) 482-3874, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations are to the Department of Commerce's (the Department's) regulations codified at 19 CFR part 351 (2000).

## Background

This review covers four manufacturers/exporters (*i.e.*, Branco Peres Citrus S.A. (Branco Peres); Citrovita Agro Industrial Ltda. (Citrovita) and its affiliated parties (Cambuhy MC Industrial Ltda. (Cambuhy) and Cambuhy Citrus Comercial e Exportadora (Cambuhy Exportadora)); CTM Citrus S.A. (CTM); and Sucorrico S.A. (Sucorrico).

On June 4, 2001, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. *See Frozen Concentrated Orange Juice from Brazil; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 29330 (June 4, 2001) (*Preliminary Results*).

CTM and Sucorrico claimed that they did not have shipments of subject merchandise to the United States. Because we were able to confirm this with the Customs Service, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding our review for CTM and Sucorrico. For further discussion, see the "Partial Rescission of Review" section of this notice, below.

Regarding Branco Peres, we were informed by the Customs Service that there was an entry of subject merchandise produced by Branco Peres during the period of review (POR) which was withdrawn from a bonded warehouse. We asked Branco Peres to explain the circumstances surrounding this entry. Branco Peres responded that it had reported the sale associated with the entry in question in the prior 1997-1998 administrative review of this proceeding. We have confirmed that we reviewed the sale associated with this entry in the context of the 1997-1998 administrative review completed August 11, 1999, and we have, therefore, determined that Branco Peres did not have any reviewable entries during this POR. Accordingly, we are rescinding our review of Branco Peres and intend to order liquidation of the entry in question at the rate in effect at the time of entry, in accordance with our practice. For further discussion, see the "Partial Rescission of Review" section of this notice, below.

We invited parties to comment on our preliminary results of review. At the request of Citrovita, a respondent in this review, we held a public hearing on August 30, 2001. The Department has conducted this administrative review in accordance with section 751 of the Act.

### Scope of the Order

The merchandise covered by this order is frozen concentrated orange juice from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS item number is provided for convenience and for customs purposes. The written description of the scope of this proceeding is dispositive.

### Period of Review

The period of review is May 1, 1999, through April 30, 2000.

### Partial Rescission of Review

As noted above, Branco Peres, CTM, and Sucorrico informed the Department that they had no shipments of subject merchandise to the United States during the POR. We have confirmed this with the Customs Service and with information submitted by Branco Peres from a previous segment of this proceeding. See the Memorandum from Jason M. Hoody to the File, entitled "U.S. Sales of Branco Peres in the 1997–1998 Antidumping Duty Administrative Review on Frozen Concentrated Orange Juice from Brazil," dated May 29, 2001. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding our review with respect to Branco Peres, CTM, and Sucorrico. (See *e.g.*, *Certain Welded Carbon Steel Pipe and Tube from Turkey*; *Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 35190, 35191 (June 29, 1998); and *Certain Fresh Cut Flowers from Colombia*; *Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (Oct. 14, 1997).)

### Affiliated Producers

During the previous administrative review, a sister company to Citrovia's parent company purchased another Brazilian producer of FCOJ and that producer's affiliated trading company (*i.e.*, Cambuhy and Cambuhy Exportadora, respectively). In that segment of the proceeding, we determined that it was appropriate to treat Citrovia and these affiliated parties as a single entity using the criteria outlined in 19 CFR 351.401(f). See *Notice of Final Results of Antidumping Duty Administrative Review: Frozen Concentrated Orange Juice from Brazil*, 65 FR 60406, 60407 (Oct. 11, 2000) (*FCOJ 1998–1999 Final Results*). Because neither Citrovia nor Cambuhy has provided any new evidence showing that this finding no longer holds true, we have continued to

treat Citrovia and Cambuhy as a single entity and to calculate a single margin for them.<sup>1</sup> (See *e.g.*, *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 17998, 17999 (April 13, 1999) (unchanged by the final results).) Regarding Cambuhy Exportadora, however, Citrovia provided information demonstrating that this company did not function as a producer of FCOJ during the POR. Accordingly, we have not collapsed Cambuhy Exportadora with Citrovia and Cambuhy for purposes of the final results.

### Cost of Production

As discussed in the *Preliminary Results*, we conducted an investigation to determine whether Citrovia made home market sales of the foreign like product during the POR at prices below its cost of production (COP) within the meaning of section 773(b)(1) of the Act. We calculated the COP for these final results, and performed the cost test, following the same methodology as in the *Preliminary Results*.

Based on this analysis, we found that 100 percent of Citrovia's home market sales were made at prices less than the COP, and we disregarded them. For further discussion, see the *Preliminary Results*, 66 FR at 29932.

### Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 2, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. 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 B-099, 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>. The paper copy and electronic version of the Decision Memo are identical in content.

### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made no changes to

<sup>1</sup> Hereinafter, these companies will be referred to collectively as "Citrovia," unless otherwise noted.

the margin calculations. For further discussion, see the Decision Memo.

### Final Results of Review

We determine that the following weighted-average margin percentage exists for the period May 1, 1999, through April 30, 2000:

| Manufacturer/exporter   | Percent margin |
|---|----------------|
| Citrovia Agro Industrial Ltda./<br>Cambuhy MC Industrial Ltda | 15.98          |

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Accordingly, we have calculated importer-specific duty assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. The assessment rate will be assessed uniformly on all entries of that particular importer made during the POR.

### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of FCOJ from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (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 1.96 percent, the "all others" rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 doubled antidumping duties.

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 751(a)(1) and 777(i) of the Act.

Dated: October 1, 2001.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix—Issues in Decision Memo

##### Comments

1. Exchange Rates
  2. Financing Expenses
  3. Profit Used for Constructed Value
- [FR Doc. 01-25099 Filed 10-4-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-837]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that greenhouse tomatoes from Canada are being, or are likely to be, sold in the United States at less-than-fair-value prices as provided in section 733 of the Tariff Act of 1930, as amended. The estimated margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** October 5, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mark Ross or Minoo Hatten, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)

482-4794 or (202) 482-1690, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 351 (April 2000).

##### Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigation: Greenhouse Tomatoes From Canada*, 66 FR 20630 (April 24, 2001) (*Initiation Notice*)), the following events have occurred:

On May 14, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of greenhouse tomatoes from Canada. See ITC Investigation No. 731-TA-925 (Publication No. 3224).

Since it was not practicable to examine all known producers/exporters of subject merchandise, in accordance with section 777A(c)(2) of the Act and 19 CFR 351.204(c)(2), on May 15, 2001, we selected the five largest producers/exporters of greenhouse tomatoes from Canada as the mandatory respondents in this investigation. For further discussion, see the "Selection of Respondents" memorandum dated May 15, 2001, from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I.

On May 16, 2001, we received a request from the Canadian Embassy on behalf of Westmoreland Sales, Golden Jem Produce Inc., and MCN Acres Ltd. to treat these companies as voluntary respondents in this investigation. On May 24, 2001, these potential voluntary respondents were provided with a copy of the questionnaire and specific written guidance on the Department's criteria for including a voluntary respondent in the investigation. We have not received a response to our questionnaire from any voluntary respondents.

On May 24, 2001, we issued the antidumping questionnaire to mandatory respondents BC Hot House Foods, Inc., Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), Veg Gro Sales, Inc. (a.k.a. K & M Produce Distributors, Inc.), J-D Marketing, Inc.,

and Mastronardi Produce Ltd. In the cover letter of the questionnaire, we informed the mandatory respondents that we had initiated a cost-of-production (COP) inquiry in this case. These respondents did not produce the subject merchandise. Therefore, consistent with our policy regarding COP investigations, it became necessary to select producers which supplied the five respondents in order to gather COP information for this investigation. We requested comments regarding the selection of the COP respondents and on May 31, 2001, and June 21, 2001, we received comments from interested parties regarding the selection COP respondents. On June 29, 2001, the Department identified the COP respondents. See the "Identification of Cost-of-Production Respondents" memorandum dated June 29, 2001, from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I. After identifying the appropriate companies for cost reporting and issuing questionnaires to these companies, we discovered that two of them were only resellers of greenhouse tomatoes and not growers. Therefore, we requested COP data from the growers which supplied these resellers. See the July 13 and July 19, 2001, letters from Laurie Parkhill, Director, Office 3, to counsel for Veg Gro Sales, Inc., and J-D Marketing, Inc., respectively.

During June, July, August, and September of 2001, the five mandatory respondents submitted their responses to the Department's original and supplemental questionnaires.

On August 10, 2001, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on August 15, 2001, and postponed the preliminary determination until no later than September 24, 2001 (see *Antidumping Duty Investigation Covering Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination*, 66 FR 43838, August 21, 2001). On September 27, 2001, the Department postponed the due date for the preliminary determination until no later than October 1, 2001. See *Antidumping Duty Investigation On Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination*, 66 FR 49344, September 27, 2001.

On several occasions the petitioners submitted comments arguing that the cost respondents for BC Hot House Foods, Inc., are unrepresentative of the other growers that supplied the