

the twelve—month period immediately preceding the anniversary month. As discussed above, under 19 CFR 351.214(f)(2)(ii), when the sale of the subject merchandise occurs within the POR, but the entry occurs after the normal POR, the POR may be extended. Therefore, the POR for the NSR of Golden Banyan is February 1, 2007, through February 29, 2008.

In cases involving non—market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country—wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Accordingly, we will issue a questionnaire to Golden Banyan, including a separate rates section. The review will proceed if the responses provide sufficient indication that Golden Banyan is not subject to either *de jure* or *de facto* government control with respect to its exports of preserved mushrooms. However, if Golden Banyan does not demonstrate its eligibility for a separate rate, then the company will be deemed not separate from other companies that exported during the POI and the NSR will be rescinded as to the company.

On August 17, 2006, the Pension Protection Act of 2006 (H.R. 4) was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in NSRs. Therefore, the posting of a bond or other security under section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e) in lieu of a cash deposit is not available in this case. Importers of subject merchandise produced and exported by Golden Banyan must continue to pay a cash deposit of estimated antidumping duties on each entry of subject merchandise at the current PRC—wide rate of 198.63 percent.

Interested parties that require access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214, and 19 CFR 351.221(c)(1)(i).

Dated: March 31, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A–351–840

Certain Orange Juice from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request by the petitioners and two producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain orange juice (OJ) from Brazil with respect to two producers/exporters of the subject merchandise to the United States. This is the first period of review (POR), covering August 24, 2005, through February 28, 2007.

We have preliminarily determined that sales to the United States have been made below normal value (NV). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

In addition, we have preliminarily determined to rescind the review with respect to one company because it had no shipments of subject merchandise during the POR. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: April 7, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, 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) 482–3874.

SUPPLEMENTARY INFORMATION:

Background

In March 2006, the Department published in the **Federal Register** an antidumping duty order on certain orange juice from Brazil. *See Antidumping Duty Order: Certain Orange Juice from Brazil*, 71 FR 12183 (Mar. 9, 2006) (*OJ Order*). Subsequently,

on February 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain orange juice from Brazil for the period August 24, 2005, through February 28, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 9505 (Feb. 2, 2007).

In accordance with 19 CFR 351.213(b)(2), on March 12 and 14, 2007, the Department received requests to conduct an administrative review of the antidumping duty order on OJ from Brazil from Fischer S/A - Agroindustria (Fischer) and Sucocitricola Cutrale, S.A. (Cutrale), respectively. In accordance with 19 CFR 351.213(b)(1), on March 30, 2007, the petitioners (Florida Citrus Mutual, A. Duda & Sons, Citrus World Inc., and Southern Gardens Citrus Processing Corporation), also requested that the Department conduct an administrative review for Cutrale and Fischer, as well as for one additional producer/exporter, Coinbra–Frutesp (SA)/Louis Dreyfus Citrus (Coinbra–Frutesp).

In April 2007, the Department initiated an administrative review for each of these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (Apr. 27, 2007). Also in April 2007, we issued questionnaires to them.

On May 1, 2007, Coinbra–Frutesp informed the Department that it made no entries of subject merchandise during the POR. We confirmed this claim with CBP information; therefore, we are preliminarily rescinding the review with respect to this company. For further discussion, see the ‘Partial Rescission of Review’ section of this notice, below.

On May 21 and 22, 2007, we received responses to section A of the questionnaire (*i.e.*, the section covering general information) from Cutrale and Fischer, respectively. We received responses to sections B and C of the questionnaire (*i.e.*, the sections covering sales in the home market and United States) from Fischer on June 1, 2007, and from Cutrale on June 12, 2007. We received responses to section D of the questionnaire (*i.e.*, the section covering cost of production (COP)/constructed value (CV)) from Cutrale on June 12, 2007, and from Fischer on June 25, 2007.

From August 2007 through March 2008, we issued supplemental sales and cost questionnaires to Cutrale and Fischer. We received responses to these

questionnaires from September 2007 through March 2008.

On September 11, 2007, in a separate segment of this proceeding, the Department initiated a changed circumstances review for Fischer to determine whether a change in the company's corporate organization in December 2006 was significant enough to warrant treating the company as a new entity (or alternatively to find that the new company was the successor-in-interest to Fischer). See *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Orange Juice from Brazil*, 72 FR 51798 (Sept. 11, 2007). On October 22, 2007, the Department determined that the new company, Fischer S.A. Comercio, Industria and Agricultura (Fischer Comercio), is the successor-in-interest to Fischer. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Orange Juice from Brazil*, 72 FR 59512 (Oct. 22, 2007). Therefore, we have treated these two companies as the same entity in this administrative review.

On November 13, 2007, the Department extended the deadline for the preliminary results in this review until no later than March 31, 2007. See *Certain Orange Juice from Brazil: Notice of Extension of Time Limits for the Preliminary Results of the First Administrative Review*, 72 FR 63874 (Nov. 13, 2007).

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 (Cargill), Coinbra-Frutesp, 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.

Partial Rescission of Review

As noted above, on May 1, 2007, Coinbra-Frutesp informed the Department that it had no entries of subject merchandise to the United States during the POR. We have confirmed this with CBP. See the Memorandum to the File from Elizabeth Eastwood entitled, "Placing Customs Entry Data on the Record of the 2005–2006 Antidumping Duty Administrative Review of Certain Orange Juice from Brazil," dated March 31, 2008. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Coinbra-Frutesp. See, e.g., *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67666 (Nov. 8, 2005).

Comparisons to Normal Value

To determine whether sales of OJ by Cutrale and Fischer to the United States were made at less than NV, we compared constructed export price (CEP) to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Tariff Act of 1930, as amended (the Act), we compared the CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Cutrale and Fischer covered by the description in the "Scope of the Order" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales of OJ to sales of OJ in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the last U.S. sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: product type and organic designation. Where there were no sales of identical or similar merchandise made in the ordinary course of trade, we made product comparisons using CV.

Constructed Export Price

For all U.S. sales made by Cutrale and Fischer, we used the CEP methodology specified in section 772(b) of the Act because the subject merchandise was sold for the account of these respondents by their U.S. subsidiaries in the United States to unaffiliated purchasers.

A. Cutrale

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, we are treating all of Cutrale's U.S. sales as CEP sales because they were made in the United States by Cutrale's U.S. affiliates on behalf of Cutrale, within the meaning of section 772(b) of the Act.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. For sales made pursuant to futures contracts, we adjusted the reported gross unit price (i.e., the notice price) to include gains and losses incurred on the futures contract which resulted in the shipment of subject merchandise. All other gains and losses related to futures

trading activities have been included in indirect selling expenses. Where appropriate, we included as part of the starting price certain additional revenue items received from the customer. Also where appropriate, we made adjustments for billing adjustments, discounts, and rebates.

In addition, we made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign warehousing expenses, foreign brokerage and handling expenses, ocean freight, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees) offset by U.S. duty drawback and customs duty reimbursements, U.S. inland freight expenses (*i.e.*, freight from port to warehouse), and U.S. warehousing expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, bank charges, commissions, imputed credit expenses, and repacking), and indirect selling expenses (including inventory carrying costs, gains and losses on "rolled over" futures contracts, and other indirect selling expenses). We recalculated inventory carrying costs using the manufacturing costs reported in Cutrale's most recent COP database, adjusted as noted in the "Calculation of Cost of Production" section of this notice, below.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Cutrale and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

B. Fischer

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, we are treating all of Fischer's U.S. sales as CEP sales because they were made in the United States by Fischer's U.S. affiliate on behalf of Fischer, within the meaning of section 772(b) of the Act.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for billing adjustments and rebates. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign warehousing expenses, foreign brokerage and handling expenses, ocean freight expenses, bunker fuel surcharges, marine insurance expenses, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees) offset by U.S. duty drawback and customs duty reimbursements, U.S. inland freight expenses (*i.e.*, freight from port to warehouse or to customer), and U.S. warehousing expenses.

In accordance with sections 772(d)(1) and (2) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, additional processing expenses, imputed credit expenses, and repacking), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Fischer and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

We determined that the aggregate volume of home market sales of the foreign like product for both respondents was sufficient to permit a proper comparison with its U.S. sales of the subject merchandise.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the

Department will calculate NV based on sales at the same level of trade (LOT) as the export price (EP) or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.* *See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),¹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported home market and U.S. sales, including

¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. Cutrale

Cutrale reported that it made CEP sales through one channel of distribution in the United States (*i.e.*, sales via affiliated resellers) and thus the selling activities it performed did not vary by the type of customer. We examined the selling activities performed for this channel and found that Cutrale performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services; and inventory maintenance. These selling activities can be generally grouped into four core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the core selling functions, we find that Cutrale performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Cutrale reported that it made sales through one channel of distribution (*i.e.*, direct sales to soft drink manufacturers). We examined the selling activities performed for home market sales, and found that Cutrale performed the following selling functions: sales forecasting, strategic planning, order processing, limited advertising, engineering services/technical assistance, inventory maintenance and post-sale warehousing, guarantees, and packing. Accordingly, based on the core selling functions, we find that Cutrale performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for home market sales. Because all home market sales are made through a single distribution channel, we preliminarily determine that there is one LOT in the home market for Cutrale.

Finally, we compared the CEP LOT to the home market LOT and found that the core selling functions performed for U.S. and home market customers do not differ significantly. Therefore, we determine that sales to the U.S. and home markets during the POR were made at the same LOT, and as a result, neither an LOT adjustment nor a CEP

offset is warranted for Cutrale. We note that, while Cutrale is claiming a CEP offset in this proceeding, Cutrale itself admits that there are no significant differences between its sales process during the period of investigation of the less-than-fair-value (LTFV) investigation and the POR. *See* Cutrale's May 15, 2007, section A supplemental response at page 3. Consequently, because no compelling evidence exists that Cutrale's sales process changed during the POR of this administrative review, we continue to find that no CEP offset is warranted for Cutrale, as we did in the LTFV investigation. *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, 49563 (Aug. 24, 2005) (*LTFV Preliminary Determination*), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (Jan. 13, 2006) (*LTFV Final Determination*).

2. Fischer

Fischer reported that it made CEP sales through one channel of distribution in the United States (*i.e.*, sales via an affiliated reseller) and thus the selling activities it performed did not vary by the type of customer. We examined the selling activities performed for this channel and found that Fischer performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services; and inventory maintenance. These selling activities can be generally grouped into four core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the core selling functions, we find that Fischer performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Fischer reported that it made sales through one channel of distribution and that the selling activities it performed did not vary by the type of customer. We examined the selling activities performed for home market sales, and

found that Fischer performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight; cold storage and inventory maintenance; and packing services. Accordingly, based on the core selling functions, we find that Fischer performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for home market sales. Because all home market sales are made through a single distribution channel, we preliminarily determine that there is one LOT in the home market for Fischer.

Finally, we compared the CEP LOT to the home market LOT and found that the core selling functions performed for U.S. and home market customers do not differ significantly. Therefore, we determine that sales to the U.S. and home markets during the POR were made at the same LOT, and as a result, neither an LOT adjustment nor a CEP offset is warranted for Fischer.

C. Cost of Production Analysis

We found that both Cutrale and Fischer had made sales below the COP in the LTFV investigation, the most recently completed segment of this proceeding as of the date the questionnaire was issued in this review, and such sales were disregarded. For Fischer, see *LTFV Preliminary Determination*, 70 FR at 49564; unchanged in *LTFV Final Determination*. For Cutrale, see the Memorandum to the File from Elizabeth Eastwood entitled, "Placing Sucocitrico Cutrale S.A.'s Comparison Market Program from the Final Determination of the Less Than Fair Value Investigation on the Record of the 2005–2007 Administrative Review of Certain Orange Juice from Brazil," dated March 31, 2008. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Cutrale and Fischer made home market sales at prices below the cost of producing the merchandise in the current review period.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (*see* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

The Department relied on the COP data submitted by each respondent in its most recently submitted cost database

for the COP calculation, except for the following instances:

a. Cutrale

- i. In accordance with the transactions disregarded rule, *i.e.*, section 773(f)(2) of the Act, we adjusted Cutrale's cost of manufacturing to reflect the market value of oranges that were purchased from an affiliate.
- ii. We revised the calculation of the financial expense ratio to include all financial expenses and net foreign exchange gains and losses from the consolidated financial statements of Cutrale's highest level parent company in the numerator of the calculation and to reduce the denominator of the calculation by the revenue from the sales of by-products.
- iii. We revised the calculation of the G&A expense ratio to include the cost of sales related to cattle in the denominator and to reduce the denominator by the revenue from the sales of by-products.

For further discussion of these adjustments, see the Memorandum from James Balog, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Adjustments for the Preliminary Results - Sucocitrico Cutrale Ltda," dated March 31, 2008.

b. Fischer

- i. The Department values the self-produced agricultural input used in the production of subject merchandise by multiplying the average per-unit cost to produce the input during the 12-month growing season by the quantity of the self-produced agricultural input used in the production of subject merchandise. In this segment of the proceeding, Fischer did not value the self-produced oranges used in the production of subject merchandise per the Department's normal methodology. Instead, Fischer valued the self-produced oranges used in the production of subject merchandise by dividing the total POR agricultural cost by the associated harvested quantity as opposed to dividing the 12-month growing season cost by the harvested quantity during the growing season. Because Fischer's reporting methodology of self-produced oranges is conservative and does not understate the cost of self-produced oranges, as neutral

facts available, we have relied upon the reported cost of self-produced oranges for the preliminary results. However, the appropriate methodology for calculating the cost of self-produced oranges in this case and in future reviews is to calculate the average per-unit cost to produce oranges during the 12-month growing season that most appropriately matches the POR.

- ii. We revised Fischer's reported product-specific manufacturing costs to allocate the common material and conversion costs to FCOJM, "Dairy Pak" orange juice ("Dairy Pak"), and NFC based on the relative quantity of finished production of each type of orange juice converted into an equivalent brix level. We note that Fischer allocated these costs to FCOJM, "Dairy Pak," and NFC based on the relative quantities of orange inputs used in the production of each type of orange juice.
- iii. We revised Fischer's G&A expense ratio to include a provision for losses on fruit contracts and labor claims, as well as expenses other than depreciation incurred by a collapsed affiliated entity during the 2006 fiscal year. Finally, we excluded by-product costs, packing, freight, storage, and other movement expenses from the cost of goods sold denominator of the G&A expense ratio.

For further discussion of these adjustments, see the Memorandum from Sheikh M. Hannan, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Adjustments for the Preliminary Results - Fischer S/A - Agroindustria," dated March 31, 2008.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, rebates, direct and indirect selling expenses and packing expenses, revised where appropriate, as discussed below under the "Price-to-Price Comparisons" section.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) or the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of Cutrale's and Fischer's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no useable home market sales in the ordinary course of trade, we compared CEPs to the CV in accordance with section 773(a)(4) of the Act. See "Calculation of Normal Value Based on Constructed Value" section below.

D. Calculation of Normal Value Based on Comparison Market Prices

1. Cutrale

For Cutrale, we calculated NV based on ex-factory prices to unaffiliated customers. We included warehousing revenue in the starting price. We made adjustments, where appropriate, to the starting price for Brazilian taxes and billing adjustments in accordance with section 773(a)(6)(B)(iii) of the Act. We made deductions from the starting price for home market credit expenses (offset

by interest revenue) pursuant to section 773(a)(6)(C) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses and inventory carrying costs, up to the amount of the U.S. commission.

Finally, we deducted home market packing costs and added U.S. packing costs, where appropriate, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

2. Fischer

We calculated NV based on delivered prices to unaffiliated customers. We made adjustments, where appropriate, to the starting price for discounts in accordance with 19 CFR 351.401(c). We made adjustments, where appropriate, to the starting price for Brazilian taxes in accordance with section 773(a)(6)(B)(iii) of the Act. We deducted foreign inland freight expenses and inland insurance expenses in accordance with section 773(a)(6)(B)(ii) of the Act.

In addition, we made deductions under section 773(a)(6)(C) of the Act for credit expenses (offset by interest revenue). Finally, we deducted home market packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those OJ products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts G&A expenses, profit, and U.S. packing costs. For Fischer, we calculated the cost of materials and fabrication based on the methodology described in the "Cost of Production Analysis" section, above. We based G&A and profit for Fischer on the actual amounts incurred and realized by it in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home

market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting comparison market direct selling expenses from CV. See 19 CFR 351.410(c).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period August 24, 2005, through February 28, 2007, as follows:

Manufacturer/Exporter	Percent Margin
Sucocitrico Cutrale, S.A. Fischer S/A Agroindustria/Fischer S.A. Comercio, Industria, and Agricultura	0.51 2.46

Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. See 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and, 3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised

in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

We will calculate 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 which entered value was reported. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis*. See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

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) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in this final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, 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 original 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 made effective by the LTFV investigation. *See OJ Order*, 71 FR at 12184. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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 double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: March 31, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8-7220 Filed 4-4-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Coral Reef Conservation Program Administration

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 6, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Bill Millhouser, 301-713-3155, ext. 189 or Bill.Millhouser@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Coral Reef Conservation Act of 2000 (Act) was passed to provide a framework for conserving coral reefs. The Coral Reef Conservation Grant Program, under the Act, provides funds to broad-based applicants with experience in coral reef conservation to conduct activities to protect and conserve coral reef ecosystems. The information submitted is used to determine: (1) Whether the applicant qualifies for a waiver of matching funds, and (2) if a proposed project is consistent with the coral reef conservation priorities of authorities with jurisdiction over the area where the project will be carried out.

II. Method of Collection

The information may be submitted via e-mail or fax.

III. Data

OMB Number: 0648-0448.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, local or tribal government; federal government; not-for-profit institutions.

Estimated Number of Respondents: 53.

Estimated Time Per Response: Matching funds waiver request, 30 minutes; Proposal comment, 1 hour and 30 minutes.

Estimated Total Annual Burden Hours: 106.

Estimated Total Annual Cost to Public: \$600.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 1, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-7096 Filed 4-4-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Marine Recreational Fisheries Statistics Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.