

**BEFORE THE:  
TRADE POLICY STAFF COMMITTEE  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

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**In the Matter of:**

**Market Access in the Free Trade  
Area of the Americas Negotiations**

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**Written Testimony**

**by**

**Florida Citrus Mutual**

**August 21, 2002**

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## **INTRODUCTION AND SUMMARY OF POSITION**

These comments are filed on behalf of Florida Citrus Mutual (FCM) of Lakeland, Florida, in response to the notice published by the Trade Policy Staff Committee, 67 Fed. Reg. 49,732-3 (July 31, 2002), requesting comments concerning market access in the Free Trade Area of the Americas (FTAA) negotiations. FCM is a voluntary cooperative association whose active membership consists of 11,676 Florida growers of citrus for processing and fresh consumption. FCM represents more than 90 percent of Florida's citrus growers. FCM's membership also accounts for as much as 80 percent of all oranges grown in the United States for processing into juice and other citrus products.

FCM asserts that any reduction in the U.S. orange juice tariff applying to Brazil (including the recently announced U.S. proposal for global agricultural trade reform, which reduces the maximum allowable agricultural tariff to 25% *ad valorem* in phase one and eliminates all agricultural tariffs in phase two) would devastate the U.S. industry that grows oranges for processing. Furthermore, any tariff reduction would dramatically affect the entire Florida citrus industry, the economic impact of which has recently been estimated at \$9.13 billion in industry output, \$4.18 billion in value-added activity, and 89,700 jobs.<sup>1</sup>

The global orange juice industry is highly unique. World orange juice consumption is concentrated chiefly among only 2 regions: the United States and the European Union. Aside from the United States and, to a lesser extent, Canada, there are no other significant orange juice consuming countries in the Western Hemisphere.

Global orange juice production is also concentrated chiefly among only 2 countries: Brazil and the United States. Brazil's production is controlled by 5 very large

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<sup>1</sup> Alan Hodges, et al, "Economic Impact of Florida's Citrus Industry, 1999-2000," *Economic Information Report*, EIR 01-2, University of Florida, Institute of Food and Agricultural Sciences, Food and Resource Economics Department, July 2001, p. 3.

processors,<sup>2</sup> which control roughly 80 percent of Brazil's FCOJ production. Given that they also operate and control Brazil's tank ship distribution system, these companies indirectly control nearly all of Brazil's FCOJ exports. The large Brazilian processors benefit from advantages brought by past subsidization and dumping, lax environmental protection, weak and largely unenforced child labor laws, frequent national currency devaluations (which reduce the cost of domestic labor and other production inputs), oligopoly control over the price of processing oranges, and seasonal manipulation of FCOJ futures prices.

The U.S. industry that grows oranges for processing is also highly unique among other U.S. agricultural industries in that it **does not receive any WTO-designated green box domestic subsidies**. In a sense, it has no safety net. Its only offsetting tools are the tariff and enforcement of the unfair trade laws.

For all of these reasons, the U.S. industry that grows oranges for processing is not in a position to benefit from trade liberalizing initiatives, particularly one which anticipates tariff elimination for a producer as massive, concentrated, and advanced as Brazil. The Foreign Agriculture Service of USDA recently stated in its July 2002 article entitled, "U.S. Proposal for Global Agricultural Trade Reform: What's at Stake for Orange Juice," that the "U.S. initiative [to reduce agricultural tariffs to a 25 percent maximum] would correct many of the disparities U.S. orange juice currently faces in global markets." FCM submits that, on the contrary, the USTR proposal would exacerbate the current disparities. While the U.S. citrus industry welcomes greater access to foreign markets, the marginal benefit of exporting a few additional containers of U.S. orange juice to South and Central American markets,<sup>3</sup> which have historically low-demand, would immediately be rendered meaningless if the U.S. orange juice tariff is reduced, thus, crippling the entire U.S. industry that grows processing oranges. FCM

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<sup>2</sup> These dominant Brazilian processors are Cargill Citrus Ltda., Citrosuco Paulista S.A., Citrovita Agro Industrial Ltda., LouisDreyfus Citrus S.A., and Sucocitrico Cutrale Ltda.

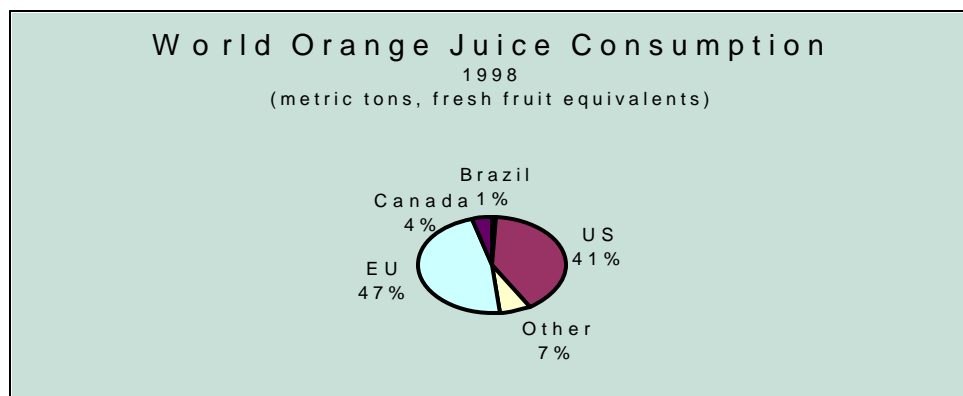
<sup>3</sup> The United States already enjoys dutyfree access to the Canadian orange juice market.

finds the FAS article, posted on USTR's website, to be disturbingly remiss of major facts about what is REALLY at stake for orange juice and the U.S. industry that grows processing oranges if the tariff is reduced.

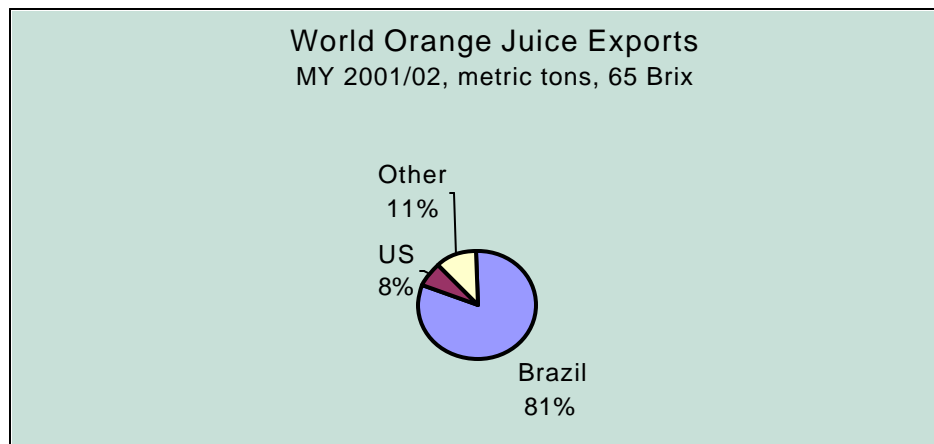
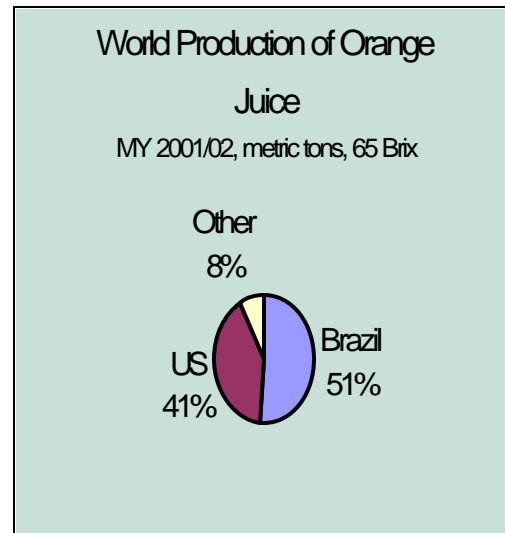
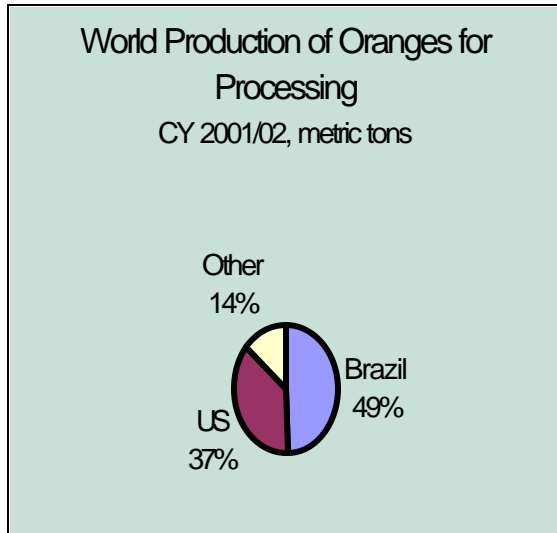
In addition to processing orange growers, U.S. orange juice consumers are not in a position to benefit from orange juice tariff reductions, either. Contrary to popular notions, reducing or eliminating U.S. orange juice tariffs would NOT bring the benefit of low-priced orange juice to the U.S. breakfast table. Due to the high degree of production concentration in Brazil, the reduction of U.S. orange juice tariffs would not increase global competition, but would eliminate Brazil's only significant competition, and force U.S. consumers to suffer the consequences of unrestrained orange juice prices. In addition, retail prices for citrus juice, as for many other processed agricultural commodities, have become increasingly disconnected from bulk FCOJ prices over the past ten years. For all of these reasons, FCM strongly opposes any reduction in U.S. orange juice tariffs under the FTAA or any trade agreement to which Brazil is a party.

### **CONCENTRATION OF GLOBAL PRODUCTION AND CONSUMPTION**

The polarization of global orange juice consumption in the United States and the EU, and the polarization of production in Brazil and the United States are unique and defining characteristics of this industry (see charts below). Because these factors are strong determinants of the negative outcome of trade liberalization, it is imperative that they be understood by all U.S. agricultural trade negotiators.



Source: FAO.

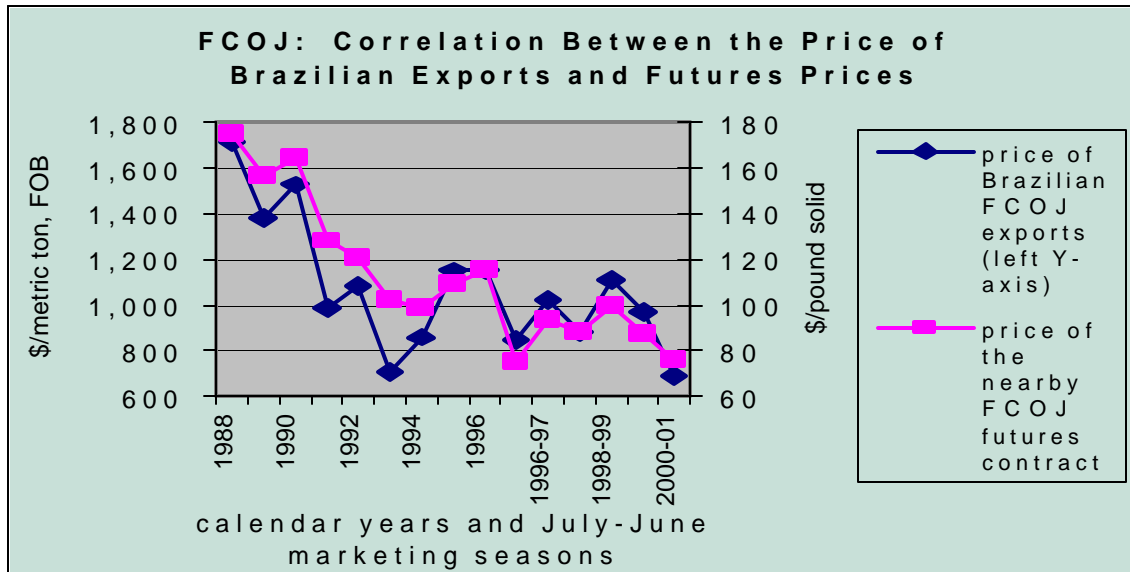


Source: "Situation and Outlook for Citrus" and "Situation and Outlook for Orange Juice," Horticultural & Tropical Products Division, FAS, August 1, 2002.

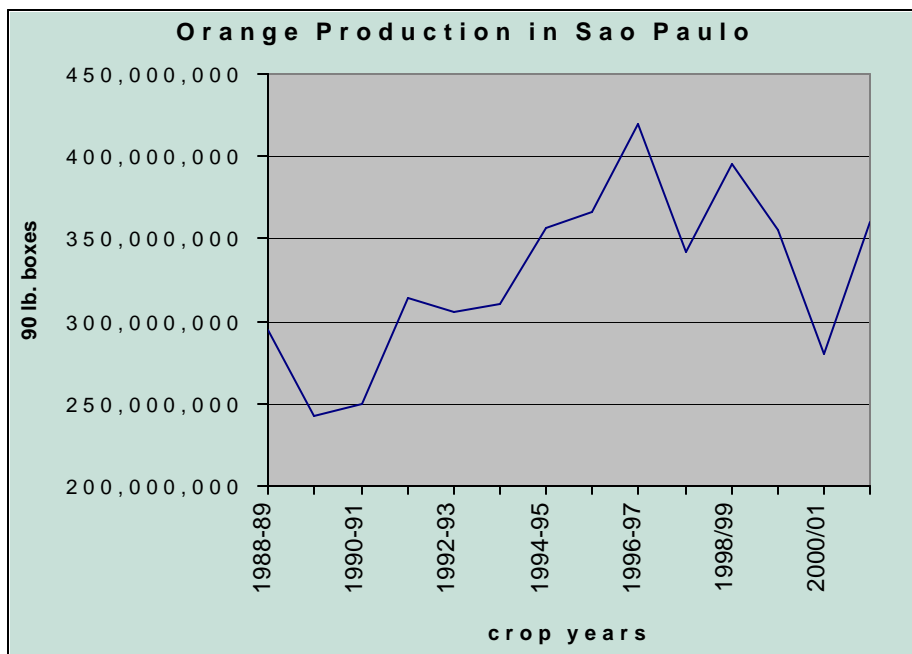
### **BRAZIL'S CONTROL AND MANIPULATION OF THE GLOBAL ORANGE JUICE MARKET**

The concentration of production among these 5 large Brazilian orange juice processors has enabled them to place tremendous downward pressure on processing orange prices in Brazil. In addition, the Brazilian orange juice processors' oligopoly dominates and manipulates the global orange juice market. As seen in the charts below,

the price of Brazilian frozen concentrated orange juice (FCOJ) in the United States and the commodity futures price of FCOJ (which is considered one of the most accurate indicators of the U.S. price of wholesale FCOJ) have declined in lock step during the past decade, in tandem with the expansion and concentration of Brazil's orange juice industry.



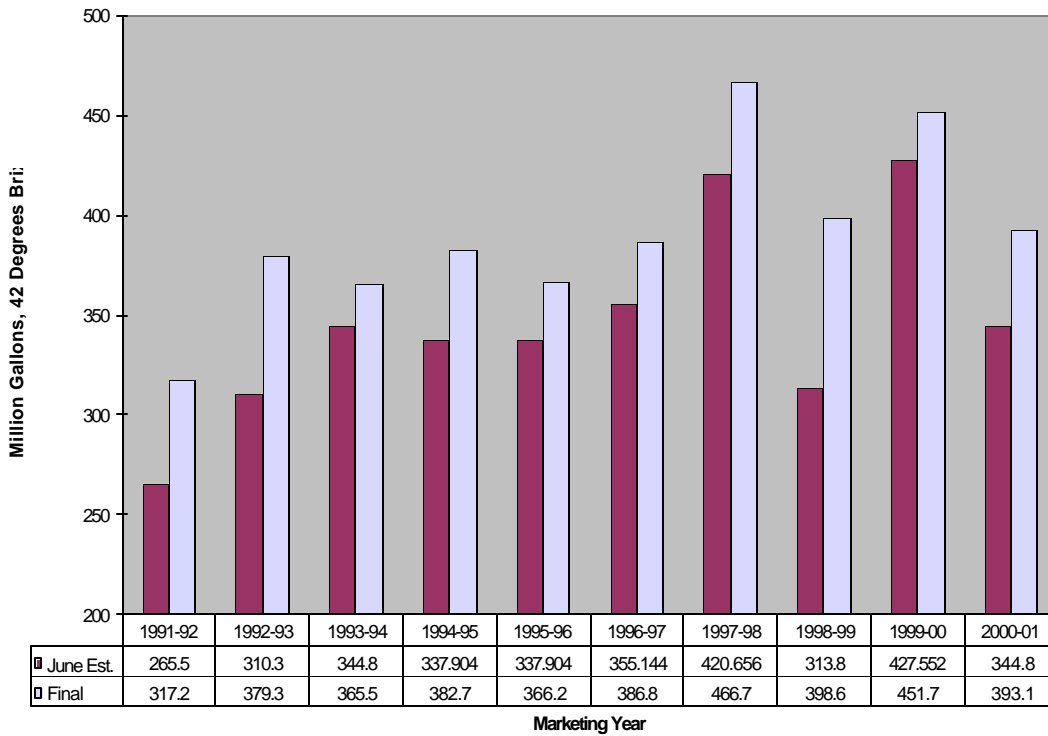
Source: Compiled by Barnes, Richardson & Colburn with futures prices from the NY Board of Trade; and Brazilian FCOJ export prices from CACEX, DECEX, FAS.



Source: U.S. Agricultural Trade Office, FAS, USDA, São Paulo.

Not only does the Brazilian orange juice oligopoly control prices on an annual basis, but they appear to be attempting to manipulate world orange juice prices on a seasonal basis in order to maximize orange juice prices during their peak harvesting season (June through September) by continually underestimating the size of their orange crop and juice production. For nine straight seasons from 1991/92 to 2000/01, initial Brazilian estimates of FCOJ production, which are made at the beginning of Brazil's peak orange harvesting season,<sup>4</sup> have understated actual output by 4-27 percent (see chart below).

Sao Paulo FCOJ Production: June Estimates vs. Actual



Source: Compiled by Florida Citrus Mutual from estimates reported in "Brazil Citrus Annual," *GAIN Report*, FAS, USDA.

<sup>4</sup> The U.S. agricultural attache in São Paulo reports these estimates during June of each year in "Brazil Citrus Annual," *GAIN Report*, Foreign Agricultural Service, USDA.

Then towards the end of the Brazilian harvest (in November and December) when the market finally learns that Brazil has harvested many more oranges than was previously estimated, the market price falls to a new equilibrium just in time for the peak Florida orange harvesting season (December through April). Although market analysts and futures traders are increasingly becoming aware of this deception and are beginning to factor it into their decision-making, the fact that it has occurred speaks loudly of the powerful market control and predatory capabilities of the Brazilian oligopoly.

Brazil is the world's largest producer of oranges by a substantial margin; while the United States is the largest orange juice consuming country in the world. The United States is also Brazil's only global competitor. Brazil has enormous incentive, as well as potential, to cripple the U.S. industry so that it can dominate the U.S. orange juice market. For the same reasons we enforce antitrust laws in this country, we must uphold the U.S. tariff on orange juice from Brazil. "Free" trade in orange juice will not lead to greater competition, consumer benefits, or overall global industry growth as might occur in other agricultural industries whose production is more widely distributed. It will lead to the rapid demise of Brazil's only remaining global competitor – Florida -- and Brazil's realization of an airtight global monopoly on orange juice.

Brazilian industry has already been found by the United States to have engaged in both injurious sales at less than fair value prices (including less than cost of production), and injurious sale of subsidized juice. As a result of an affirmative Sunset Review determination in 1999, an antidumping order remains in effect on frozen concentrated orange juice from Brazil, and the applicable dumping margins for the suppliers still covered by the order are significant.

U.S. orange juice markets, particularly those throughout the EU, have also been increasingly plagued with Brazilian orange juice prices that appear to be well below their cost of production. During September 2000 through April 2001, the price of bulk Brazilian FCOJ in the EU was often less than \$700 per metric ton (including ocean freight). In Spring 2001, in his appeal to the European Commission for protection, the President of the Italian Consortium of Citrus Processors (CITRAG) stated,

We believe that these [Brazilian] prices, which include freight cost from Santos to Europe, and for some deals also include the cost of drums, closely resemble 'dumping', since the production and overhead costs incurred by the Brazilian industry are certainly beyond these levels.<sup>5</sup>

As seen in the chart above, the long-term annual average trend in the price of Brazilian orange juice exports has been downward during the past decade and a half. Such constant downward price pressure in foreign markets makes the exporting of U.S. orange juice nearly impossible. Thus, even if there existed lucrative orange juice markets in the Western Hemisphere outside of U.S. and Canadian borders, and even if orange juice tariffs were liberalized in these markets, the U.S. orange juice industry would stand little chance of competing with Brazil at these extremely low price levels.

### **BRAZIL'S UNNATURAL ADVANTAGES**

Florida orange growers understand the virtues of free trade and the importance of negotiating trade agreements that are sensitive to the interests of developing countries with infant and emerging industries. However, Brazil's orange juice industry is one of the most advanced agricultural industries in the world. According to the Brazilian Association of Citrus Exporters (ABECITRUS), "[the orange juice industry] is one of the

main sectors of Brazilian agribusiness, employing the latest in technology, with the best logistics and transport system available in the world today.<sup>6</sup> The Brazilian oligopoly owns an entire fleet of tanker ships, which haul over 80 percent of the orange juice offered on the world market, generating for Brazil approximately \$1.5 billion in U.S. currency each year. These are not the marks of a "developing industry," but a highly industrialized, state-of-the-art industry that resides in a developing country where it can exploit the underdeveloped economic, political, and social conditions that persist there.

It is a well-documented fact that the Brazilian citrus industry is not subject to enforcement of the same child labor laws and other labor standards that are enforced in the United States. In its 1998 report to Congress,<sup>7</sup> the U.S. Department of Labor reported,

The harvesting of oranges also presents its own unique dangers. According to Brazilian welfare groups and unions, close to 150,000 children are employed during the country's six-month orange harvesting season. They pick oranges in severe heat for as long as 12 hours a day. The children's hands are dyed green and their fingertips are sometimes eroded by citric acid from the oranges and toxic pesticides sprayed even while children are in the orange groves. In some cases, damage to their fingertips is so severe that children are later refused identification cards due to a lack of fingerprints.[FN]

Previously, in its 1995 report to Congress,<sup>8</sup> the Department of Labor reported,

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<sup>5</sup> "Italian Industry Slams Brazilian Processors," *FOODNEWS*, Agra Europe Ltd., Volume 29, No. 15, Apr. 6, 2001, p. 12.

<sup>6</sup> <http://www.abecitrus.com.br/abecus.html>.

<sup>7</sup> *By the Sweat & Toil of Children, Volume V: Efforts to Eliminate Child Labor*, U.S. Department of Labor, 1998 (<http://www.dol.gov/dol/ilab/public/media/reports/iclp/sweat5/>).

<sup>8</sup> *By the Sweat and Toil of Children, Volume II: The Use of Child Labor in U.S. Agricultural Imports & Forced and Bonded Child Labor*, U.S. Department of Labor,

In Brazil, farms regularly employ children, especially migrant laborers during peak harvest seasons.[FN] In the Tabatinga region in the state of São Paulo, 15 percent of the 70,000 fruit pickers are estimated to be under 14. Some employers hire children because they are lighter and more able to climb trees without breaking branches.[FN] Children usually pick oranges from trees or off the ground and box them for shipment.[FN] They are paid \$3.00 for working a 14 hour day.[FN]

The U.S. Department of State reports in its *1999 Country Report on Human Rights Practices in Brazil*:<sup>9</sup>

A report published by the Sergipe state government in 1997 stated that 10,000 children and adolescents between the ages of 6 and 18 were part of the labor force in the orange-growing region, with 54 percent between the ages of 7 and 14.

Brazil supports International Labor Organization (ILO) Conventions No. 138, on the Minimum Age for Admission to Employment, and No. 182, on the Worst Forms of Child Labor. However, as of August 2002, legislation that would fully implement these Conventions has still not been made law in Brazil. There are a few rather weak anti-child labor laws on the books in Brazil. For instance, under the Brazilian Federal Constitution, employing children under the age of eighteen to work at night or in “any dangerous or unhealthy job”, and employing children under sixteen, unless they are apprentices, is punishable by a \$320 fine.<sup>10</sup> However, the practice of child labor remains rampant in Brazil's citrus industry, either because the fines are too low to be a deterrent or the laws

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1995

(<http://www.dol.gov/dol/ilab/public/media/reports/iclp/sweat2/commercial.htm#B.3>).

<sup>9</sup> Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, February 25, 2000.

<sup>10</sup> "Child Labor Law Changes in Brazil," Global March Against Child Labor, Jan. 25, 1999, <http://www.globalmarch.org/cl-around-the-world/child-labor-law-changes-in-brazil.html>.

are simply not being enforced. Even if Brazil eventually strengthens its anti-child labor laws, lack of enforcement will render the laws powerless.

The largest citrus-growing region outside of São Paulo is the state of Sergipe. The President of the Sergipe Citrus Fruit Workers' Union, Carlos "Gato" Alberto Santos de Oliveira, was a well-known labor activist in Brazil who fought against the exploitation of children in Brazilian orange groves. On September 23, 2001, Carlos Gato was assassinated by several gunmen at point blank range. The U.S. Department of State recently reported the following findings in its *2001 Country Report on Human Rights Practices in Brazil*,<sup>11</sup>

In October the police arrested the mayor of Tomar de Geru (Sergipe), Gildeon Ferreira da Silva, and police officer Valmir dos Santos Souza on charges of ordering and carrying out the murder [of Carlos Gato]. Witnesses place Santos at the scene of the killing. Two gunmen who allegedly collaborated with Santos remained at large at year's end.

While there has been no final conclusion of official involvement in this tragic incident, it is an unfortunate coincidence that the eradication of child labor would be very costly for the citrus industry that has profited from it over the years. In states such as Sergipe and São Paulo, the citrus industry wields tremendous political strength as it accounts for an influential portion of the tax base. According to State Department reports, despite considerable anti-child labor propaganda issued at high levels in the Brazilian government, it is at this local level that enforcement breaks down and the status quo is upheld.

Without competition-equalizing tariffs, U.S. orange growers cannot and should not be made to compete with such an exploitative foreign industry. In December 2000,

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<sup>11</sup> Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Mar. 4, 2002, <http://www.state.gov/g/drl/rls/hrrpt/2001/wha/8305.htm>.

Congress appropriated an unprecedented \$82 million to support international efforts to eliminate child labor during fiscal year 2001.<sup>12</sup> Rewarding Brazil with a reduction in U.S. orange juice tariffs would contradict all of these efforts, while also punishing U.S. orange growers who operate in an environment of more stringent labor laws in the United States.

The Florida Division of Agriculture and Consumer Services (as required by the U.S. Department of Labor) conducted 2,700 Worker Protection Standard (WPS) inspections in the State of Florida during 2000. Approximately half of these inspections were to ensure the protection of workers in citrus groves.<sup>13</sup> The labor standards in Florida orange groves are high and heavily regulated by State and Federal agencies. Minimum age and wage regulations are rigorously enforced. Field workers and harvesters are subject to a schedule of routine training to ensure safe operation of mowing, pruning and harvesting equipment. They are also trained to ensure safe use and mixing of field chemicals such as pesticides and fungicides, etc. They are required to wear appropriate protective gear in the groves and to observe strict rules for re-entering the groves after chemical applications. Grove owners are also required to meet stringent housing standards for their field and harvesting workers who require housing, such as migrant workers from abroad employed under the H2A program. We are not aware of any such regulations being enforced in São Paulo, Sergipe or other citrus growing regions in Brazil.

In addition, Florida orange growers are held liable for any degradation to the land, water or air that may result from their operations. They are required to use field

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<sup>12</sup> U.S. Department of Labor (<http://www.dol.gov/dol/ilab/public/programs/iclp/>).

chemicals in compliance with the environmental regulations and warnings on their labels. They are also responsible for protecting surrounding land and water from fertilizers and chemical run-off. Pursuant to the run-off regulations, many growers in South Florida must dedicate on average 20 percent of their acreage to retention ponds and ditches that prevent run-off and allow for the safe treatment of grove water. Brazil's environmental standards for citrus groves are considerably more lax, if existent at all.

Florida orange growers are also prevented from using a number of generic-brand field chemicals that are readily available in Brazil. In the United States, the process of getting generic field chemicals registered is much more lengthy and expensive than in Brazil, because EPA has more stringent requirements and the chemicals must undergo more rigorous testing to ensure their safety than in Brazil. In Brazil, the average cost of registering a generic field chemical is about \$45,000 to \$100,000. Whereas in the United States, such registration costs are in excess of \$5,000,000. The end result is that U.S. grove owners are forced to use the more expensive brand name chemicals which have already been registered with EPA, while Brazilian grove owners are able to cut costs substantially by using generic chemicals that have not yet been proven safe in the United States.

Lax, unenforced and nonexistent labor, environmental and health and safety laws are, however, not the only reason why Brazil is able to sell its orange juice at such low prices. Ronald Muraro and Thomas Spreen at The University of Florida recently calculated comparative cost of production estimates for processed oranges in Florida and São Paulo, Brazil. They estimate that in crop year 2000/01 labor costs (including wages,

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<sup>13</sup> Estimate by economists at Florida Citrus Mutual.

salaries and social taxes) were 45¢/box in Florida and only 17¢/box in São Paulo.<sup>14</sup> A substantial portion of this wide discrepancy is due to the many currency devaluations Brazil has experienced during the last few decades.

Brazil's orange juice sales are denominated in U.S. dollars. Thus, devaluation does not directly affect the terms of trade for Brazilian orange juice. However, it does affect the "actual" cost of labor and other domestic production inputs, which are denominated in Real, by making those inputs cheaper relative to the price paid for the orange juice. For instance, in marketing year 1996/97, the currency conversion was \$1.04 Real = \$1 U.S. As of July 1, 2002, the conversion was \$2.84 Real = \$1 U.S.<sup>15</sup> Thus, a unit of labor that cost \$1 Real or 96¢ U.S. in MY 1996/97, would only cost 35¢ U.S. on July 1, 2002. So the cost of grove labor as a percentage of the export price of Brazilian orange juice shrinks each time the Brazilian Real loses value against the U.S. dollar. Since the many Brazilian orange growers lack collective bargaining power vis-à-vis the few powerful Brazilian processors, they are not able to obtain a higher price for their oranges, so the Brazilian processors absorb all the additional profits that result from devaluation. This is just one more way the Brazilian orange juice oligopoly is able to benefit from residing in a country with an underdeveloped and inflationary economy.

In an ideal free market world economy where basic and equivalent labor, environmental, and health/safety laws exist and are enforced, where world production and prices are not controlled by a single oligopolistic industry, and where currency devaluations do not tip the scales dramatically in favor of the foreign exporters, the law

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<sup>14</sup> "Cost for Processed Oranges: A Comparison of Florida and São Paulo," Ronald P. Muraro and Thomas H. Spreen, IFAS, The University of Florida, presented at the Florida Citrus Industry Economics Meeting, July 8-9, 2002.

<sup>15</sup> *International Financial Statistics*, International Monetary Fund.

of natural advantages might outweigh arguments for tariff protection. But the Florida agriculture sector in general, and citrus in particular, cannot defer to that logic, because Brazil's advantages are not "natural" and the playing field is grossly skewed. The tariff is the only offset on which this unsubsidized U.S. industry can rely to counter these "unnatural" advantages.

### **NEGATIVE ECONOMIC EFFECTS OF TARIFF REDUCTION**

If U.S. orange juice tariffs are reduced or eliminated, the price of U.S. imports of bulk FCOJ from Brazil, as well as the futures contract prices of FCOJ and the U.S. wholesale price of orange juice, would fall rapidly. At the same time, the volume of U.S. FCOJ imports from Brazil would increase significantly. The supply of U.S. juice oranges and orange juice, however, would remain constant as they are not responsive to price.

It is important to understand that the U.S. supply of juice oranges is highly inelastic, because they are a natural, perishable product whose supplies are primarily dictated by the number of productive citrus trees in the United States, air temperature, amount of rainfall, and citrus tree diseases. Capacity utilization in citrus groves is always near 100 percent, because all wholesome citrus fruit is picked. Since it takes at least 4-5 years for an orange tree to begin bearing fruit and 25 years for it to stop bearing fruit, supplies cannot be manipulated in the short-run in response to price. Thus, given the inability of orange supplies to respond to juice prices, the U.S. on-tree price of juice oranges would immediately plummet and, in turn, cause grower rates of return to fall well below the break-even point resulting in widespread grove closures.

The grove closures would leave unemployed over 42,000 citrus grove workers in Florida alone, and jeopardize the existence of all U.S. juice extractors and processors that depend on domestic citrus. It would also have grave consequences for the following upstream suppliers of the U.S. juice orange industry:

- nurseries that supply replacement trees to citrus groves,
- suppliers of fertilizer, fungicide, herbicide and insecticide to citrus groves,
- suppliers of irrigation and spraying systems, mechanical harvesters and farm implements,
- financial institutions, especially merchant banks that have citrus exposure,
- insurance companies that serve the citrus industry, and
- freight companies that haul citrus to processing plants.

Since the land on which processing oranges are grown has very sandy soil with little agricultural value outside of citrus production, and the volume of all other fruit juices extracted in the United States combined pales in comparison to orange juice, the above upstream industries could not exist if orange juice production were no longer viable. In addition, because the production of about 75 percent of all processing oranges is concentrated in Central and South Florida, entire counties in these regions would be ravaged and their real estate values would tumble as thousands of groves would be abandoned.

### **INCREASED SALES OF NOT-FROM-CONCENTRATE (NFC) JUICE IS NOT A SOLUTION**

Those wishing to reduce U.S. orange juice tariffs have suggested that U.S. orange growers should shift their production primarily to the Not From Concentrate (NFC) market, in which Brazil has not traditionally been a significant competitor, due to the costs extended transport. Unfortunately, this is not a viable solution. Aside from the fact

that U.S. exporters would face the same issue of higher transportation costs for NFC, U.S. growers of oranges for processing do not decide what product their oranges are processed into. How the oranges are utilized (whether in concentrate, fresh pasteurized juice, or for further processing of juice and non-juice beverages) is the sole decision of the processor, some of which are owned and controlled by the large Brazilian processors. Growers simply harvest and sell the fruit that their trees produce. Growers, therefore, subsist by means of the returns on the sale of juice made from deliveries of their fruit, no matter how utilized.

If tariffs on orange juice from Brazil were reduced or eliminated, U.S. orange juice processors, reprocessors and blenders that already reprocess and blend varying amounts of Brazilian orange juice would likely purchase even larger volumes of Brazilian FCOJ because its price would be even lower compared to the cost of purchasing and processing U.S.-grown oranges. This would cause the price paid to U.S. growers for processing oranges to decline. The decreased price of Brazilian FCOJ may even cause U.S. processors to decide to produce less NFC orange juice, and more concentrated orange juice due to its lower cost, bringing the price of processing oranges grown in Florida down even further. Since U.S. growers cannot reduce their crop size in the short term (meaning less than a period of about 5 years) and can only reduce it marginally over the longer term on account of the long life span of orange trees, the impact of any tariff reduction on processing orange prices in Florida would be dramatic and immediate.

If U.S. orange juice duties were reduced, it is possible that at least a few of the U.S. processors who currently process only U.S. oranges (i.e., cooperatives and U.S. grower-owned processors) would continue to do so and would process them exclusively

for the NFC market. While this demand for U.S.-grown oranges for use in the NFC market might provide a limited amount of support for orange prices, it would never be enough to off-set the strong price-depressing influence of Brazilian FCOJ and, therefore, could not prevent widespread grove closures.

Both the FCOJ and NFC markets are necessary to assure economic operation of U.S. groves and sufficient volume of production. U.S. orange growers are currently operating at margins very close to or under their break-even point, and are simply too vulnerable to withstand the massive and immediate orange price decline that the onslaught of Brazilian FCOJ would cause should U.S. orange juice tariffs be reduced.

#### **EXPERIENCE UNDER NAFTA IS NOT A MODEL FOR AN FTAA**

Those wishing to reduce U.S. orange juice tariffs have also pointed to the experience of U.S. orange growers after Mexican orange juice was granted preferential tariff treatment under the NAFTA, implying that because NAFTA imports did not damage U.S. orange growers to the extent that many industry members had expected, a reduction in orange juice tariffs applying to Brazilian juice would be equally benign, or the same protections built into the NAFTA would be equally effective in an FTAA. This implication is completely misinformed.

U.S. imports from Mexico have fallen short of expectations primarily due to damaging droughts in Mexico since the passage of NAFTA, as well as an outbreak of citrus tristeza virus (CTV) throughout most southeastern Mexican citrus groves. While the Mexican government has been working to eradicate this virus at both the state and federal levels, progress has been slow. These natural events have moderated what

appeared, pre-NAFTA, to be a sharp escalation in Mexican orange production. Undoubtedly, the strong Mexican peso and heavy competition from Brazilian FCOJ, not to mention duty-free CBI orange juice, in the U.S. market have impeded Mexico's orange juice exports in recent years.<sup>16</sup>

Despite the natural, currency and competitive difficulties Mexican producers have faced, U.S. imports of frozen orange juice from Mexico have still exceeded the NAFTA TRQ in every year, except 2001, and are expected to exceed it again in 2002.<sup>17</sup> Thus, Florida orange growers have still had to contend with significant competition from Mexico, which has contributed to the price pressure Florida growers are currently struggling with.

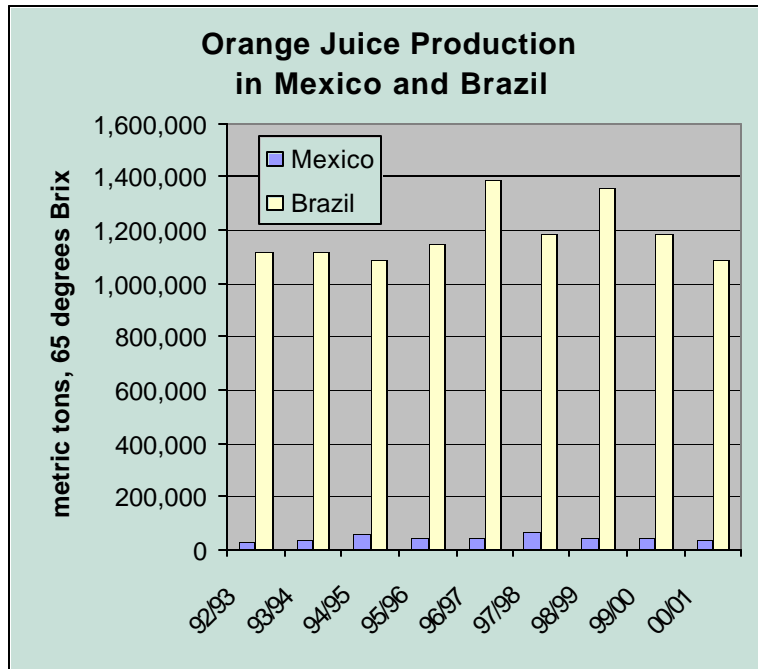
It is important to explain, however, that although the U.S. orange-growing industry has considered, and still considers, orange juice from Mexico to be a serious threat, the experience of Mexican orange juice imports into the United States resulting from NAFTA cannot be used as a model of the potential impact of Brazilian orange juice imports into the United States should U.S. tariffs on Brazilian juice be reduced or eliminated. In short, Mexico is not Brazil. Brazilian orange juice production dwarfs that of Mexico (see chart below). Brazil has more than twice as much land dedicated to orange production as Mexico and more than 3 times as many trees. Plus, unlike Mexico, Brazil has extremely low rates of fresh orange consumption. Therefore, Brazil processes 23 times as many oranges as Mexico.<sup>18</sup>

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<sup>16</sup> "Mexico, Citrus: Mexican Government Hosts Citrus Forum, 2001," *GAIN Report*, FAS, USDA, June 13, 2001.

<sup>17</sup> "Mexico Citrus Semi-Annual Report," *GAIN Report*, FAS, USDA, April 25, 2002.

<sup>18</sup> Data in this and the previous sentence reflect Mexico's 2001/02 orange crop and Brazil's 2000/01 orange crop (from "Mexico: Citrus Semi-Annual," *GAIN Report*, FAS, USDA, Apr. 25, 2002, and "Brazil: Citrus Semi-Annual," *GAIN Report*, FAS, USDA, Nov. 20, 2001).



Source: World Horticultural Trade & U.S. Export Opportunities, FAS, USDA.

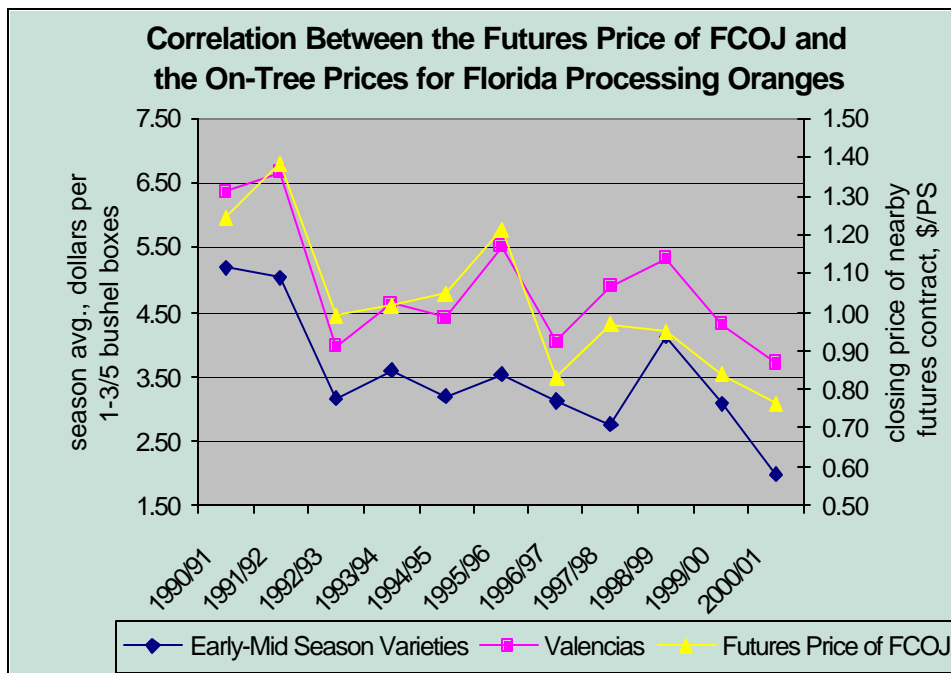
The United States is currently Mexico's largest export market for orange juice. Mexico has the ability to divert fruit from fresh domestic consumption into orange juice processing for export to the United States; however, Mexico would not be able to shift very large quantities of orange juice from other foreign markets into the United States. This situation is quite different, however, in Brazil's case. In marketing year 2001/02, Brazil exported more than 7 times as much as juice to foreign markets outside the United States as it exported to the United States.<sup>19</sup> If U.S. FCOJ tariffs applying to Brazilian FCOJ were reduced or eliminated, Brazilian processors would have the ability to divert massive quantities of FCOJ from European markets into the United States on very short notice, potentially flooding the U.S. market and decimating U.S. grower prices overnight.

<sup>19</sup> ABECITRUS/SECEX at <http://www.abecitrus.com.br/expyus.html>.

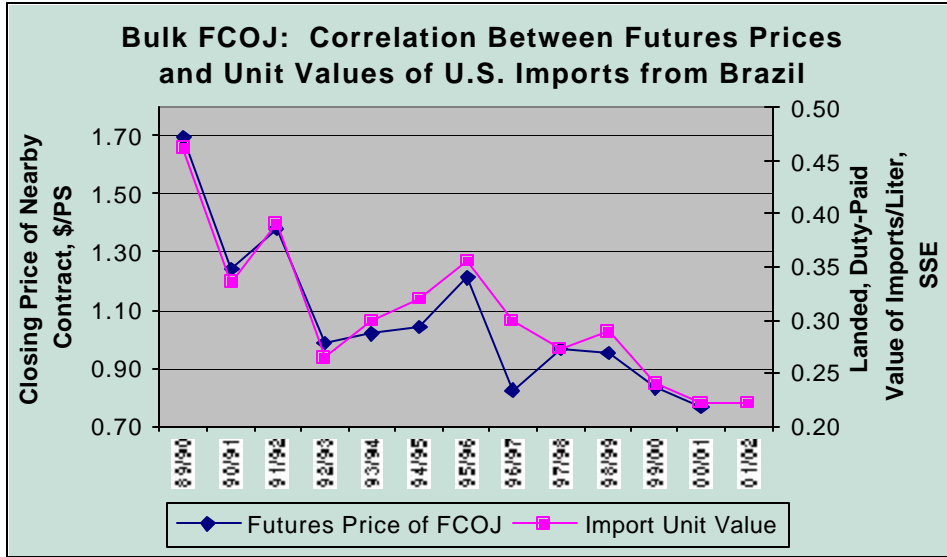
**ECONOMIC EFFECTS ON THE CONSUMER**

Aside from the impact of unrestrained orange juice imports on the U.S. orange growing industry, the most highly touted benefit of free trade agreements -- lower prices to consumers -- would not be realized in the case of orange juice. Increasingly, the price of retail orange juice has not tracked the declines in processing orange prices nor the declines in wholesale and futures prices of FCOJ. On the contrary, retail prices have skyrocketed while processing orange and FCOJ prices have collapsed.

As can be seen in the charts below, processing orange prices have fallen dramatically during the past decade, causing grower profits to plunge to levels barely above the break-even point. Processing orange prices fell as a result of the declining wholesale price of FCOJ during the past decade (which is most accurately reflected in the futures price of FCOJ), and the wholesale price of FCOJ fell as a result of the falling price of Brazilian FCOJ.

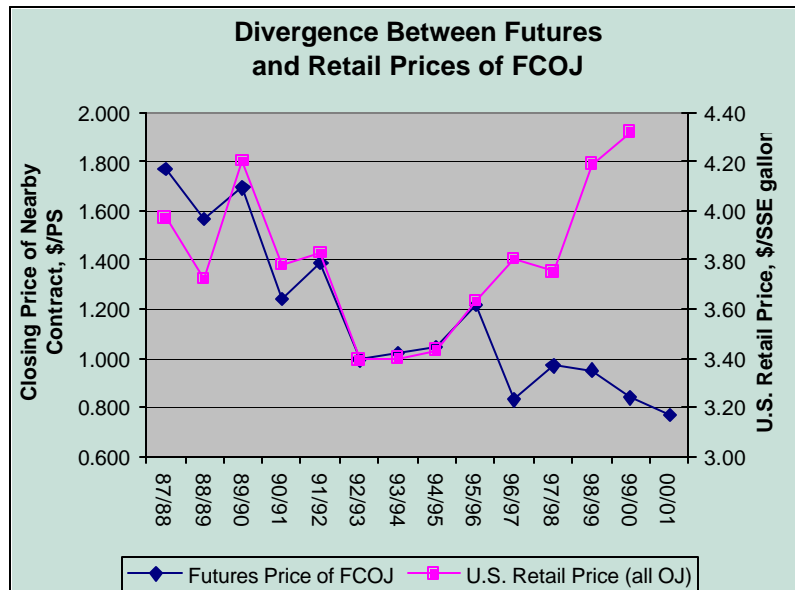


Source: On-tree prices from Florida Agricultural Statistics Service (FASS) and futures prices from the New York Cotton Exchange (2000/01 figure is preliminary, based on Dec. through Mar. data).



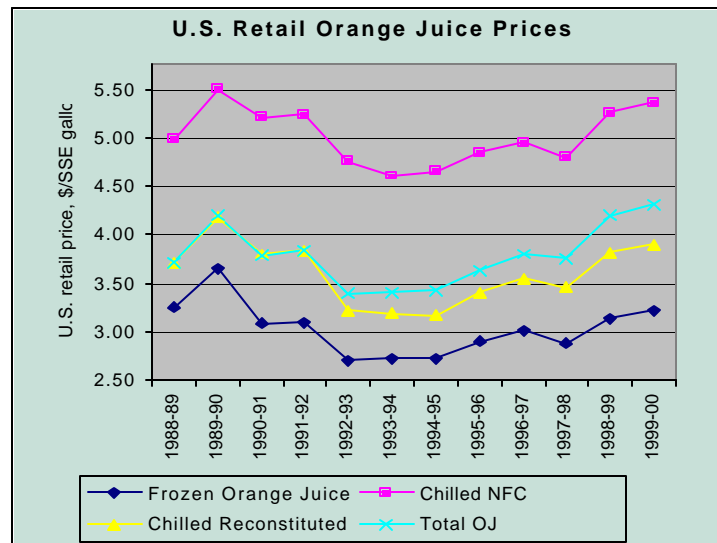
Source: Futures prices from the New York Cotton Exchange (2000/01 figure is preliminary, based on Dec. through Mar. data); and import unit values from official statistics of the U.S. Department of Commerce (01/02 figure represents only Oct. through Jan.).

At the retail level, however, U.S. orange juice prices no longer track the declining wholesale and grower prices, but have increased sharply in recent years (see chart below).



Source: Futures prices from the New York Cotton Exchange (2000/01 figure is preliminary, based on Dec. through Mar. data), and retail prices from A.C. Nielsen.

The increase in retail prices cannot be explained away by the growth in U.S. NFC sales. The chart below demonstrates that retail prices of chilled reconstituted, frozen, and NFC orange juice have all increased substantially during recent years.



Source: A.C. Nielsen.

What has happened is that orange juice retailers are charging the final consumer what the market will bear, which is apparently higher and higher each year, while the processors, reprocessors, and blenders, who buy their raw materials (FCOJ from Brazil or processing oranges from Florida growers) at plunging prices, all share in pocketing the significant juice mark-up. This pricing situation benefits the oligopolistic Brazilian processors two-fold because 1) they now own some of the processors in the United States that are benefiting from the mark-up, and 2) their low-priced FCOJ exports to the United States depress the prices received by U.S. growers thus forcing many of them out of business and expanding the Brazilian processors' control over world orange juice supplies and prices.

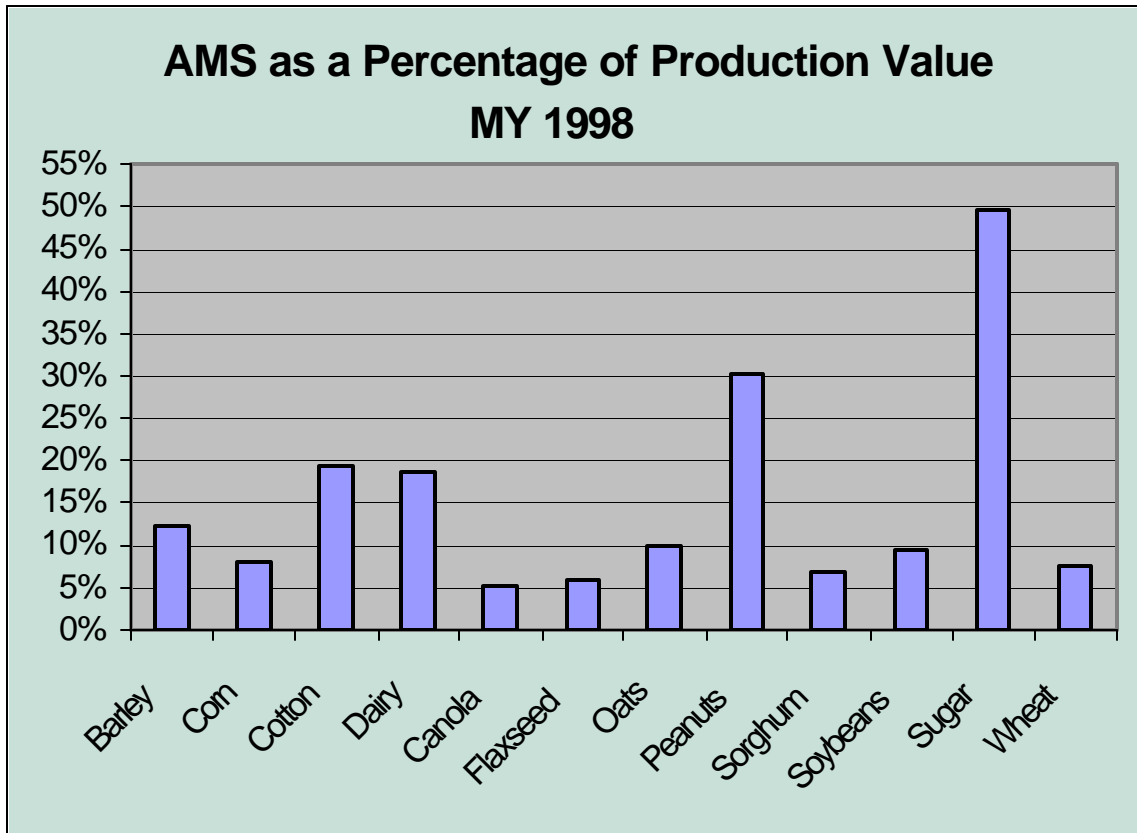
Should U.S. tariffs on orange juice from Brazil be reduced or eliminated, this situation would be exacerbated, as the U.S. processors, reprocessors and blenders -- the first consumers of imported orange juice -- would reap the benefits of tariff reduction, while Florida growers of processing oranges would take a heavy hit. The final

consumers of the imported orange juice would never see the price break supposedly derived from the tariff reduction. However, as the Brazilian processors amass greater and greater global market power, U.S. final consumers would eventually suffer the consequences of unrestrained orange juice prices.

### **THE U.S. ORANGE JUICE TARIFF**

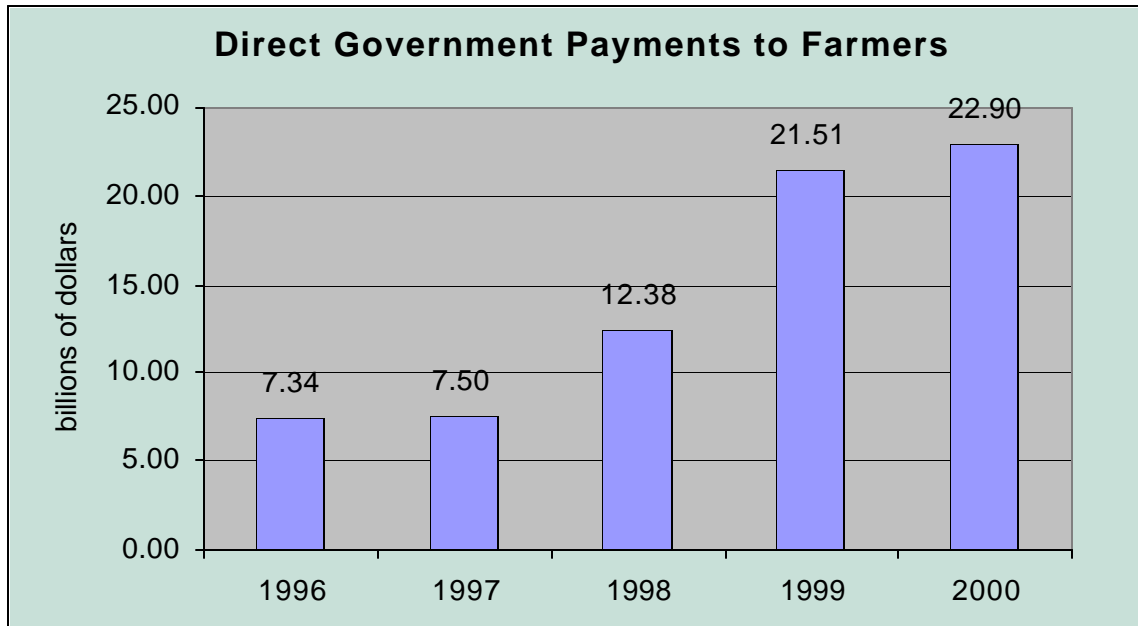
For far too long, the U.S. tariff on orange juice has been unfairly criticized and targeted for reduction because it is considered by trade negotiators to be higher than tariffs on other agricultural goods. For this reason Florida Citrus Mutual now finds itself in the position of defending its tariff in the face of opposition from other agricultural sectors that have as their goal the reduction of overseas barriers to exports. It must be understood that, while the U.S. citrus tariff is the "life blood" of our industry, the benefits we derive from it pale in comparison to the monumental subsidies that other U.S. agricultural industries receive.

It is ironic that some U.S. agricultural advocates assert "free trade" principles and criticize the only form of "assistance" the orange growing industry gets, while standing on the wealth of huge and growing farm subsidies. The most recent WTO notification that the United States made on domestic agricultural subsidies showed that, in marketing year 1998, the total Aggregate Measure of Support (AMS) under WTO reduction commitments as a percentage of production values by commodity were as follows, with **citrus receiving nothing:**



Source: “Notification concerning domestic support commitments for marketing year 1998,” received from the delegation of the United States on June 22, 2001, WTO Committee on Agriculture, G/AG/N/USA/36.

The figures above only represent domestic subsidies which are subject to reduction commitments under the Uruguay Round Agreement. They do not cover the many “green box” subsidies, as well as export subsidies, granted to dairy and crop commodities. Furthermore, the figures above represent only 1998, because that is the most recent data provided to the WTO. Since 1998, total direct government payments to the subsidized sectors have skyrocketed (see table below), while production values for many crops have fallen. Thus, the current subsidy ratios in these dairy and crop commodity sectors are much higher than those depicted above.



Source: ERS, USDA (<http://www.ers.usda.gov/data/FarmIncome/finfidmu.htm>).

It is difficult to compare the monetary benefit of a subsidy with that of a tariff. For one thing, much of the tariff revenue collected on orange juice imports is drawn back by U.S. processors that file manufacturing drawback claims when they export orange juice, so the tariff does not have the same effect as a support payment or other form of domestic subsidy.

One statement that can certainly be said about subsidies and tariffs by way of comparison, however, is that U.S. direct payments to other subsidized industries are much more costly to the U.S. government, hence U.S. taxpayers, than the U.S. orange juice tariff, which has a positive impact on the Federal budget.

The U.S. market is by far the most significant market we have. Unlike dairy and crop commodities, which are consumed throughout the world, orange juice is consumed primarily in highly developed economies such as the United States and Europe. With Brazilian juice firmly entrenched in Europe at rock bottom prices, it only makes sense to

concentrate on sales at home. Our growth in exports of specialty products, such as NFC, must necessarily be incremental and secondary to the domestic market for FCOJ. While the Florida industry will continue to seek out new export markets, both for fresh and processed products, it is myopic to think that we are likely to be as large a factor in foreign markets as Brazil. We simply do not have the domestic subsidies we would need to compete with the Brazilians and Europeans in Europe. We want to serve the U.S. market and we can do so without the huge government payments that other agricultural sectors receive. However, the U.S. orange juice tariff is necessary to offset the unfair or artificial advantages that lower the price of Brazilian juice.

### **CONCLUSION**

Florida Citrus Mutual understands that free trade in many industries, including many agricultural industries, leads to increased competition, eventual price benefits to consumers, and overall global economic growth. Unfortunately, free trade cannot deliver these rewards to such a concentrated and polarized global industry, especially one in which the developing country's industry is, in fact, already the most highly developed in the world. Florida Citrus Mutual appreciates the opportunity to explain to the interagency Trade Policy Staff Committee (TPSC) the unique global structure of the orange juice industry and the negative economic effects that would occur as a result of U.S. tariff reduction or elimination.

We encourage the TPSC to consider carefully the circumstances of the citrus industry and market, and to report to all FTAA agricultural negotiators that any trade agreement which further reduces U.S. tariffs on orange juice from Brazil, beyond the levels bound in the Uruguay Round, will not only cause adverse consequences, but will spell the end of the U.S. industry producing oranges for processing, and should not be

considered under the Free Trade Area of the Americas, the next round of WTO negotiations, or any other trade agreement that involves Brazil.

Respectfully submitted,

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