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Access of Latin American and Caribbean Exports to the U.S. Market 2004-2005



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I. Introduction

The trade relationship between the United States and Latin America and the Caribbean has grown over the past years to the benefit of both economies. Additionally, important efforts have taken place in pursuit of free trade. The United States Congress approved the Dominican Republic - Central American Free Trade Agreement (DR-CAFTA) in 2005. The agreement shall enter into effect on a date to be agreed upon among the parties, pending approval of Nicaragua and Costa Rica legislatures. Furthermore, the United States is negotiating with Peru, Colombia, and Ecuador to establish the Andean Free Trade Agreement. Bolivia remains committed to eventually joining the accord. The United States and Panama have expressed the desire to resume negotiations for a bilateral free trade agreement.

In this context this report is expected to contribute to transparency and the elimination of obstacles to the free flow of trade in the Americas. It provides an overview of barriers and measures inhibiting trade. The classification of trade inhibiting measures follows the definition used in the U.S. Trade Representative's (USTR) yearly publication National Trade Estimate Report on Foreign Trade Barriers. The report at hand focuses on the three areas of greatest relevance for Latin America and the Caribbean:

- Imports Policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, customs barriers).
- Agricultural Supports (e.g. export subsidies, market development programs and export finance programs)
- The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (e.g. Title III Safety of food and drug supply and Security Programs)

II. Import Policies

1. Tariffs

In 2004, 85.3% of all U.S. imports from Latin America and the Caribbean (LAC) entered duty-free, up slightly from the 2003 level of 84.4%.¹ Duties collected on exports from LAC to the U.S. increased, from US\$ 1.24 billion in 2003 to US\$ 1.33 billion in 2004. While the trade-weighted tariff (AVE) total for U.S. imports from the LAC region in 2004 was 0.53%, U.S. imports from the world paid an average duty rate of 1.46%. However, the trade-weighted tariff for all U.S. imports has decreased from 1.58% in 2003 to 1.46% in 2004.² Accordingly, the AVE total for U.S. imports from LAC also contracted from 0.57% in 2003 to 0.53% in 2004 (see Table 1).

Within Latin America, countries from the Central American Common Market (CACM) once again paid the highest AVE total on average of any regional trading group in the Western Hemisphere (3.55%), followed by MERCOSUR (1.93%), the Andean Community (0.19%), and CARICOM (0.18%). Overall, the North American Free Trade Agreement (NAFTA), which includes Canada and Mexico, had the lowest duty rate of 0.07%.

Although 74.2% of all exports from CACM entered the U.S. duty free³, the Ad Valorem duty rates were nearly at or above 14%. El Salvador, Guatemala, Honduras, and Nicaragua faced the highest tariff rates among all LAC countries. This is partly due to the high tariff levels placed upon the region's textile and apparel exports. Other high Ad Valorem duty rates from several CARICOM countries, such as Belize and St. Lucia, can be attributed to various sensitive industries in agricultural, food, and tobacco products.

Among the regional trading groups, NAFTA had the largest percentage (96.5%) of its exports enter the U.S. duty-free. CARICOM followed with 90.6%, CACM with 74.2%, MERCOSUR with 67.9%, and the Andean Community with 64.5%. On a country by country basis, Mexico, Bolivia, Peru, Costa Rica, and several Caribbean countries enjoyed duty-free access for 90% or more of their exports. Duty free imports from Venezuela, Argentina, and Uruguay were less than 50% of the total value.

¹ The share of duty free imports is calculated by the $(\text{Total value} - \text{Dutiable value}) / \text{Total value}$

² The Ad Valorem Equivalent is the average duty rate, expressed as the percentage of duties collected over the total value of imports entering the U.S.

³ The AVE dutiable is the average duty rate, expressed as a percentage of duties collected over the amount of the dutiable value of imports.

Table 1
Ad Valorem Rates for U.S. Imports 2004
(Thousands of Dollars, Customs Value)

	U.S. Imports for Consumption Total Value	Dutiable Value	Duties Collected	Duty Free	A.V.E. Dutiable	A.V.E. Total
World	1,460,160,460	443,830,400	21,288,649	69.6%	4.80%	1.46%
Western Hemisphere	508,814,236	44,424,075	1,432,086	91.3%	3.22%	0.28%
NAFTA	410,618,850	14,393,115	302,937	96.5%	2.10%	0.07%
Canada	255,660,079	7,253,884	100,056	97.2%	1.38%	0.04%
Mexico	154,958,771	7,139,231	202,881	95.4%	2.84%	0.13%
LAC (including Mexico)	253,154,157	37,170,191	1,332,030	85.3%	3.58%	0.53%
Andean	39,929,377	14,170,247	76,549	64.5%	0.54%	0.19%
Bolivia	260,830	24,364	517	90.7%	2.12%	0.20%
Colombia	7,360,558	802,844	25,653	89.1%	3.20%	0.35%
Ecuador	4,183,617	573,719	9,919	86.3%	1.73%	0.24%
Peru	3,684,761	76,507	4,373	97.9%	5.72%	0.12%
Venezuela	24,439,611	12,692,813	36,087	48.1%	0.28%	0.15%
MERCOSUR	25,501,752	8,193,308	492,937	67.9%	6.02%	1.93%
Argentina	3,772,346	2,020,972	43,570	46.4%	2.16%	1.15%
Brazil	21,097,657	5,731,729	380,005	72.8%	6.63%	1.80%
Paraguay	51,991	8,276	1101	84.1%	13.30%	2.12%
Uruguay	579,758	432,331	68,261	25.4%	15.79%	11.77%
CACM	13,133,554	3,388,891	466,501	74.2%	13.77%	3.55%
Costa Rica	3,297,292	246,763	12,998	92.5%	5.27%	0.39%
El Salvador	2,053,117	694,075	85,674	66.2%	12.34%	4.17%
Guatemala	3,156,227	1,266,732	212,600	59.9%	16.78%	6.74%
Honduras	3,636,731	708,599	85,341	80.5%	12.04%	2.35%
Nicaragua	990,187	472,722	69,888	52.3%	14.78%	7.06%
Chile	5,006,939	1,293,218	21,980	74.2%	1.70%	0.44%
CARICOM	7,629,705	714,558	13,818	90.6%	1.93%	0.18%
Antigua Barbuda	4,366	1,304	15	70.1%	1.15%	0.34%
Bahamas	632,702	309,496	2,310	51.1%	0.75%	0.37%
Barbados	36,421	1,748	51	95.2%	2.92%	0.14%
Belize	107,165	5,753	629	94.6%	10.93%	0.59%
Dominica	2,883	852	17	70.4%	2.00%	0.59%
Grenada	5,054	505	1	90.0%	0.20%	0.02%
Guyana	119,852	2,380	86	98.0%	3.61%	0.07%
Haiti	370,533	132,007	7,521	64.4%	5.70%	2.03%
Jamaica	308,147	71,603	1,967	76.8%	2.75%	0.64%
St Kitts-Nevis	41,719	1,408	15	96.6%	1.07%	0.04%
St Lucia	14,382	2,774	331	80.7%	11.93%	2.30%
St Vincent & Grenada	4,122	171	6	95.9%	3.51%	0.15%
Suriname	140,087	440	9	99.7%	2.05%	0.01%
Trinidad & Tobago	5,842,272	184,117	860	96.8%	0.47%	0.01%
Other Countries	4,826,570	498,893	52,167	89.7%	10.46%	1.08%
Dominican Republic	4,529,041	467,447	51,740	89.7%	11.07%	1.14%
Panama	297,529	31,446	427	89.4%	1.36%	0.14%
Other Western Hemisphere ⁽¹⁾	2,167,489	1,771,845	5,197	18.3%	0.29%	0.24%

Source: U.S. Department of Commerce (www.commerce.gov), International Trade Administration (www.ita.doc.gov)

(1) Anguilla, Aruba, Bermuda, British Virgin Islands, Cayman Is., Falkland Is., French Guyana, Guadeloupe, Martinique, Montserrat, Netherlands Antilles, St. Pierre & Miquelon, Turks & Caicos, Cuba.

2. Trade Remedy Legislation

A. Antidumping Duty and Countervailing Duty Orders in Effect

As of September 2005 there are 37 antidumping duty (AD) orders in effect against Latin America and Caribbean countries: Argentina (6), Brazil (15), Chile (2), Ecuador (1), Mexico (11), Trinidad and Tobago (1), and Venezuela (1). Of the 37 AD orders, seven correspond to agricultural, forest, and processed food products (see Table 2).

Table 2
Antidumping Duty Orders Affecting Latin America and the Caribbean
(in Effect as of September 2005)

Country	Item	DOC case No.	Order Date	Continued Date
Argentina	Barbed wire & barbless wire strand	A-357-405	11/13/1985	9/20/2004
	Light-walled rectangular tube	A-357-802	5/26/1989	8/22/2000
	Seamless pipe	A-357-809	8/3/1995	7/16/2001
	Oil country tubular goods	A-357-810	8/11/1995	7/25/2001
	Hot-rolled carbon steel flat products	A-357-814	9/19/2001	
	Honey	A-357-812	12/10/2001	
Brazil	Certain iron construction castings	A-351-503	5/9/1986	6/29/2005
	Carbon steel butt-weld pipe fittings	A-351-602	12/17/1986	1/6/2000
	Brass sheet & strip	A-351-603	1/12/1987	5/1/2000
	Silicon metal	A-351-806	7/31/1991	2/16/2001
	Circular welded non alloy steel pipe	A-351-809	11/2/1992	8/22/2000
	Carbon steel plate	A-351-817	8/19/1993	12/15/2000
	Stainless steel wire rod	A-351-819	1/28/1994	8/2/2000
	Silicomanganese	A-351-824	12/22/1994	2/16/2001
	Stainless steel bar	A-351-825	2/21/1995	4/18/2001
	Seamless pipe	A-351-826	8/3/1995	7/16/2001
	Certain hot-rolled carbon steel flat products	A-351-828	7/6/1999	5/12/2005
	Carbon steel wire rod	A-351-832	10/29/2002	
	Pre stressed concrete steel wire strand	A-351-837	1/28/2004	
	Certain frozen warmwater shrimp	A-351-838	2/27/2005	
	Certain orange juice	A-351-840	8/24/2005	
Chile	Certain preserved mushrooms	A-337-804	12/2/1998	11/17/04
	Individually quick frozen red raspberries	A-337-806	7/9/2002	
Ecuador	Certain frozen warmwater shrimp	A-331-802	2/1/2005	
Mexico	Gray Portland cement & clinker	A-201-802	8/30/1990	11/15/2000
	Circular welded non alloy steel pipe	A-201-805	11/2/1992	8/22/2000
	Carbon steel plate	A-201-809	8/19/1993	12/15/2000
	Oil country tubular goods	A-201-817	8/11/1995	7/25/2001
	Fresh tomatoes (suspended)	A-201-820	11/1/1996	12/16/2002
	Large diameter carbon and alloy seamless pipe	A-201-827	8/11/2000	
	Welded large diameter line pipe	A-201-828	2/27/2002	
	Certain stainless steel sheet & strip in coils	A-201-822	7/27/1999	7/25/2005
	Carbon steel wire rod	A-201-830	10/29/2002	
	Pre stressed concrete steel wire strand	A-201-831	1/28/2004	
	Purified Carboxymethylcellulose	A-201-834	7/11/2005	
Trinidad & Tobago	Carbon steel wire rod	A-274-804	10/29/2002	
Venezuela	Silicomanganese	A-307-820	5/23/2002	

Source: U.S. International Trade Administration (www.ita.doc.gov)

There are also 8 countervailing duty (CVD) orders in effect against Latin America and Caribbean countries: Argentina (2), Brazil (5), and Mexico (1) (see Table 3).

Table 3
Countervailing Duty Orders Affecting Latin America and the Caribbean
(in Effect as of September 2005)

Country	Item	DOC case No.	Order Date	Continued Date
Argentina	Hot-rolled carbon steel flat products	C-357-815	9/11/2001	
	Honey	C-357-813	12/10/2001	
Brazil	Heavy iron construction castings	C-351-504	5/15/1986	11/12/1999
	Brass sheet & strip	C-351-604	1/8/1987	5/1/2000
	Carbon steel plate	C-351-818	8/17/1993	12/15/2000
	Certain hot-rolled carbon steel flat products	C-351-829	7/6/1999	5/12/2005
	Carbon steel wire rod	C-351-833	10/22/2002	
Mexico	Carbon steel plate	C-201-810	8/17/1993	12/15/2000

Source: U.S. International Trade Administration (www.ita.doc.gov)

B. Antidumping and Countervailing Duties

During 2004 and 2005, the U.S. Department of Commerce (DOC) and the International Trade Commission (ITC) announced three positive AD/CVD determinations on products from Latin American and Caribbean countries. In addition, the DOC and the ITC published preliminary results of one AD/CVD determination, announced one negative determination, and terminated one investigation. The DOC and ITC also conducted several Administrative and Sunset Reviews.

i) Antidumping and Countervailing Duty Determinations⁴

The DOC conducted investigations on six cases requested by U.S. industries in 2004/2005. The Department announced final determinations of sales at less than fair value of purified carboxymethylcellulose from Mexico, certain frozen warmwater shrimp from Brazil, and from Ecuador. All three cases were confirmed by the ITC. Also, the DOC published preliminary determinations of the AD duty for certain orange juice from Brazil. In addition, the DOC and ITC published their termination of AD duty investigations on certain circular welded carbon quality line pipe from Mexico. No duty was imposed on light-walled rectangular pipe and tube from Mexico. (For details, see Appendix B).

ii) Administrative Reviews

Upon issuing an AD or CVD order, the U.S. Customs Service is directed by the ITC to demand a cash deposit of estimated antidumping or countervailing duties at the time new customs entries are made, although the assessment of final duties is still pending. Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party may request that the DOC conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation. Under Section 751 of the Tariff Act, the DOC and the ITC are authorized to review certain outstanding determinations that show “changed circumstances” warranting review or revocation.

The DOC conducts administrative reviews based on information updated since the last determination. Performing an administrative review, the DOC determines the amount of the AD or CVD to be assessed on customs entries of the merchandise during the period of review (POR) based on information updated since the last determination. If no review is requested, the DOC will direct the Customs Service to assess duties equal to the cash deposit of the estimated AD or CVD required at the time of entry of the merchandise.

Upon requests of interested parties, the DOC conducted several administrative reviews of dumping margins and subsidy rates for Latin American and Caribbean goods in 2004/2005. It published 10 final results (see Table 4) and 10 preliminary results of

⁴ For information on Antidumping and Countervailing-Duty Law, see Appendix A.

administrative reviews on AD and CVD orders. In addition, six administrative reviews were rescinded and 15 reviews were initiated. The following table shows those goods for which final results were published. (For details, see Appendix C)

Table 4
Administrative Reviews Yielding Final Results for
Latin America and the Caribbean 2004-2005

Country	Item	DOC Case No.	Period of Review	Publication Date
Argentina	Honey	A-357-812	5/11/2001-11/30/2002	5/27/2005
	Honey	C-357-813	1/1/2003 -12/31/2003	6/24/2005
Brazil	Small diameter circular seamless carbon and alloy steel standard, line and pressure pipe	A-351-826	8/01/2002 – 8/31/2003	5/10/2005
	Silicomanganese	A-351-824	12/1/2002 – 11/30/2003	4/13/2005
	Carbon and certain alloy steel wire rod	A-351-832	4/15/2002-9/30/2003	5/17/2005
Chile	Individually quick frozen red raspberries	A-337-806	1/31/2001-6/30/2003	2/8/2005
Mexico	Stainless steel sheet and strip in coils	A-201-822	7/1/2002-6/30/2003	1/26/2005
	Gray Portland cement and clinker	A-201-802	8/1/2002-7/1/2003	12/29/2004
	Carbon and alloy steel wire rod	A-201-830	4/10/2002-9/30/2003	5/16/2005
Trinidad & Tobago	Carbon and alloy steel wire rod	A-274-804	4/10/2002-9/30/2003	3/15/2005

Source: U.S. International Trade Administration (www.ita.doc.gov)

iii) Sunset Reviews

The Uruguay Round Agreements Act amended the Tariff Act of 1930, requiring the DOC to conduct reviews of existing AD and CVD orders no later than five years after the order is issued. The DOC and the ITC must determine whether revoking the order or terminating a suspended investigation is likely to lead to a recurrence of dumping or subsidies (DOC) and of material injury (ITC).

The DOC and ITC published the results of seven sunset reviews of AD orders and two of CVD orders. These results are listed in the following Table 5. Frozen concentrated orange juice from Brazil was the only good for which duties were revoked. Of note are new investigations involving certain brands of Brazilian orange juice not included in this rescinded order (see Appendix B (d)). In addition, five sunset reviews were initiated. (For details, see Appendix D)

Table 5
Sunset Reviews Yielding Final Results for
Latin America and the Caribbean 2004-2005

Country	Item	DOC Case No.	Results of Review
Argentina	Barbed wire and barbless wire strand	A-357-405	AD duty order continued.
Brazil	Hot-rolled flat-rolled carbon-quality steel products	A-351-828	AD duty order continued.
	Hot-rolled flat-rolled carbon-quality steel products	C-351-829	CVD order continued.
	Heavy iron construction castings	A-351-503	AD duty order continued.
	Heavy iron construction castings	C-351-504	CVD order continued.
	Frozen concentrated orange juice (FCOJ)	A-351-605	AD duty order revoked.
Chile	Preserved mushrooms	A-337-804	AD duty order continued.
Mexico	Stainless steel sheet and strip in coils	A-201-822	AD duty order continued.
	Large diameter carbon and alloy seamless standard, line and pressure pipe	A-588-850	DOC found continued margins; pending ITC confirmation of injury

Source: U.S. International Trade Administration (www.ita.doc.gov)

iv) New Shipper Reviews

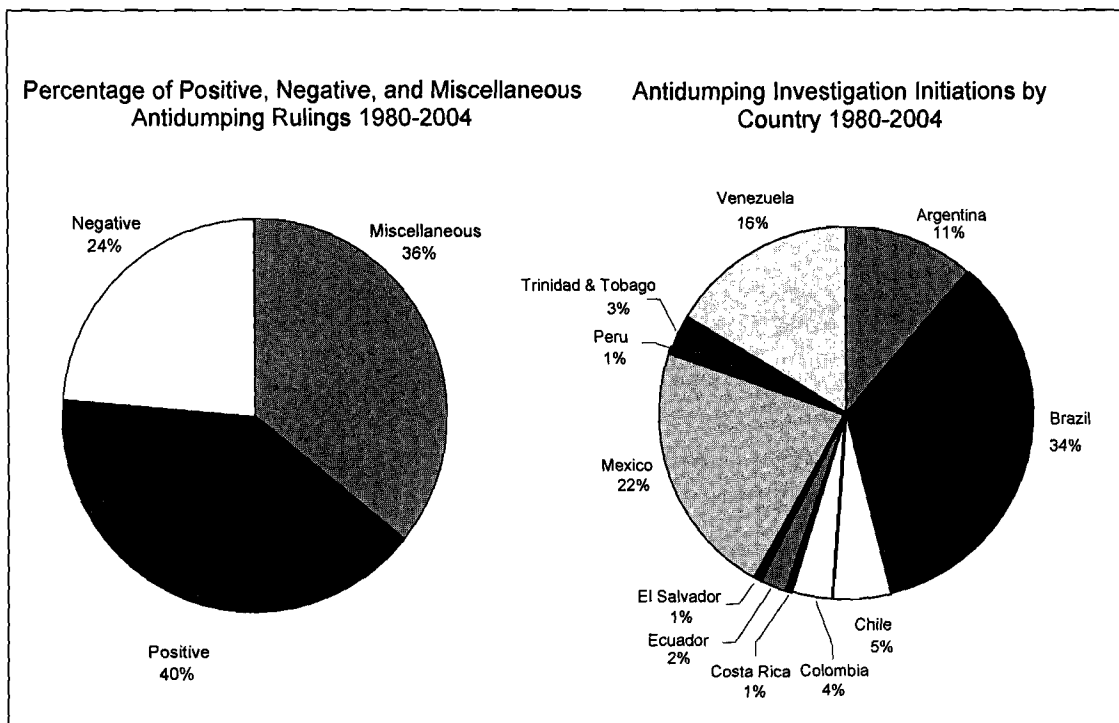
Section 751 (a)(2)(B) of the Tariff Act allows expedited reviews for the purpose of establishing an individual dumping margin or countervailing duty rate for a “new shipper”. In general, a new shipper is an exporter or producer that did not export, and is not affiliated with an exporter or producer that did export, a particular good to the United States during the period of investigation.

During 2004/2005 one new shipper review was conducted on certain hot-rolled, flat-rolled carbon quality steel products from Brazil. In addition, a new shipper review was initiated on honey from Argentina. (For details, see Appendix E)

C. U.S. Antidumping toward Latin America and the Caribbean

Figure 1 shows the rulings on all U.S. antidumping cases affecting Latin America and the Caribbean since the 1980s and AD duty initiations by country since 1980. The greatest proportion of AD duties was initiated by Brazil (34%), followed by Mexico (22%), Venezuela (16%) and Argentina (11%).

Figure 1
U.S. Antidumping Rulings and Antidumping Investigation Initiations by Country 1980-2004



Source: ECLAC, on the basis of U.S. International Trade Administration (www.ita.doc.gov), U.S. International Trade Commission (<http://www.usitc.gov>)

3. Steel Safeguards and Steel Import Monitoring System

On March 11, 2005 the DOC announced in an interim final rule that it would extend the Steel Import Monitoring and Analysis (SIMA) System⁵ by four years until March 21, 2009.⁶ Also, the Department stated its intention to monitor more products under the program and provide the public with more information regarding this process. Coverage, which currently includes product categories such as semi-finished hot- and cold-rolled steel, rebar, plate, and standard pipe, has been expanded to include other major steel product categories such as wire rod, heavy structurals (beams), oil country tubular goods, and stainless steel sheet and strip, so that all basic steel mill products are included. However, the new SIMA system does not cover downstream products such as pipefittings and flanges.⁷

The extension of SIMA is said to neither impede imports nor directly contribute to price increases for covered products. The system is considered to be consistent with the international trading obligations.⁸ The continuation and expansion of the program is said to be necessary for a stable steel market because it is the best option to provide information and data to policymakers and the industry. It allows both industry and government to better identify and react to import surges.⁹

However, steel consumers criticize the renewal of the SIMA system and allege that import tariffs raise prices and harm consumers in a time when steel is already in short supply. Importers have long urged to let the program expire on the grounds that the burden it places on consumers far outweighs its benefits.

⁵ The SIMA system was implemented in connection with the safeguard measures with respect to certain steel products (Section 203 of the Trade Act of 1974). The purpose of the SIMA system is to provide steel producers, steel consumers, importers and the general public with accurate and timely information on anticipated imports of certain steel products. The SIMA system requires licenses for imports of certain steel products. Once a week the data submitted on the steel licenses is compiled, checked and used in the SIMA system, so that the SIMA system has close to real-time data available.

⁶ The notice that the SIMA System that was implemented in connection with the safeguard measures would continue in effect until March 21, 2005 was published by the DOC on December 9, 2003. On the same day President Bush lifted the U.S. Section 201 of the Trade Act of 1974 tariffs on imported steel nearly 21 months after imposing safeguard measures which had increased such duties. The decision averted a potential trade war, as the European Union had indicated it planned to retaliate with tariffs of its own. The decision to cancel the tariffs corresponded to a ruling of a Panel of the World Trade Organization (WTO) Dispute Settlement Body (DSB) that stated that the import duties imposed by the United States were inconsistent with the Agreement on Safeguards and the GATT 1994. This conclusion was mostly maintained by the Appellate Body.

⁷ <http://ia.ita.doc.gov/steel/license>

⁸ http://www.steelonthenet.com/pdf/AISI_0405.pdf *Written statement of John P. Surma President and CEO United States Steel Corporation and Chairman, American Iron and Steel Institute*, March 16, 2005

⁹ <http://www.house.gov/mollohan/news03-04-05b.htm>

4. Special 301

Under Special 301, a provision of the Trade Act of 1974, the USTR must identify countries that deny adequate and effective protection for intellectual property rights (IPR). Countries labeled “Priority Foreign Countries,” are those whose policies and practices are considered to have the most damaging effects on U.S. products, and which are not attempting or have not made significant progress in curbing IPR violations. Countries on this list are typically subject to a formal Section 301 investigation. Additionally, the USTR identifies a “Priority Watch List” and a less severe “Watch List” of countries which may eventually reach the “Priority Foreign Country” level. A separate category, Section 306, covers countries which have reached previous bilateral agreements with the U.S. to address IP-related issues raised in previous Special 301 reports.¹⁰

As was the case in 2004, the 2005 Special 301 report gives special attention to problems of counterfeiting and piracy, with particular emphasis on the ongoing campaign to reduce production of unauthorized copies of optical media products such as CD’s, DVD’s, and CD-ROM’s. Latin American countries identified as a primary concern regarding this issue include Brazil, Mexico, Paraguay, and Venezuela. The countries of DR-CAFTA are highlighted as targets for future strengthening of IPR regulations.

A. Priority Foreign Country

No Latin American countries have been labeled “Priority Foreign Countries” for 2005.

B. Priority Watch List

The 2005 Special 301 Report includes Venezuela, Argentina, and Brazil. The latter two were also on last year’s review (see Table 6). According to the review, Argentina, while making some strides in strengthening IPR protection, including the implementation of fast-track procedures for patent applications and an amendment to its patent law to provide protection for processes, is considered to have still not made satisfactory progress in copyrights and patent protection.

This year’s review highlights that Brazil also struggles with a continued high level of piracy, although significant improvements have been made. In 2005, a National Action Plan by Brazil’s National Council to Combat Piracy and Intellectual Property Crimes was established.

Venezuela is a new addition to the Priority Watch List. The review indicates that it has not followed its obligation under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to protect confidential test data from use by the nation’s agricultural and pharmaceutical industries. Additionally, U.S. drug

¹⁰ http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/2005_Special_301/asset_upload_file195_7636.pdf

companies have expressed their concern that Venezuela has moved away from issuing drug patents, encouraging the use of unauthorized domestic copies. It is indicated that laxity on property rights has also been problematic in the music and software industries, engendering an estimated US\$ 92 million in losses for U.S. firms.

Table 6
Priority Watch List Countries in Latin America and the Caribbean

2003	2004	2005
Argentina	Argentina	Argentina
Brazil	Brazil	Brazil
Bahamas	Bahamas	Venezuela

Source: The Office of the U.S. Trade Representative (<http://www.ustr.gov>)

C. Watch List

Thirteen Latin America and Caribbean countries are included in the 2005 Special 301 Report's "Watch List" (see Table 7). The Bahamas, a new addition, was moved down from the Priority Watch List following the passage of an amendment to its Copyright Act, narrowing the scope of its broadcast licensing regime.

The review characterizes the rest of the Latin American and Caribbean countries as deficient in IPR protection as well. Piracy of music and other media was specifically cited as a large problem in Bolivia, Colombia, Ecuador, Mexico, and Peru. Additionally, drug patent violation, as well as protection for undisclosed test data for pharmaceutical and agricultural chemical products, is a concern in Chile, Ecuador, Guatemala, Mexico, Peru, and Uruguay. In Belize, IPR enforcement in the Corozal Commercial Free Trade Zone continues to be unsatisfactory according to this year's review. Enforcement is also an issue in Costa Rica, even after the country's commitment to IPR legislation that conforms to the TRIPS Agreement and DR-CAFTA. The Dominican Republic is still behind in its IPR protections and will have to institute reforms to comply with DR-CAFTA. Finally, Jamaica's delay in compliance with the TRIPS Agreement and the U.S.-Jamaica bilateral IP Agreement regarding patent protection has been cause for concern in the U.S.

Table 7
Watch List Countries in Latin America and the Caribbean

2003	2004	2005
Bolivia	Belize	Bahamas
Chile	Bolivia	Belize
Colombia	Chile	Bolivia
Costa Rica	Colombia	Chile
Dominican Republic	Costa Rica	Colombia
Ecuador	Dominican Republic	Costa Rica
Guatemala	Ecuador	Dominican Republic
Jamaica	Guatemala	Ecuador
Mexico	Jamaica	Guatemala
Peru	Mexico	Jamaica
Uruguay	Peru	Mexico
Venezuela	Uruguay	Peru
	Venezuela	Uruguay

Source: The Office of the U.S. Trade Representative (<http://www.ustr.gov>)

D. Section 306

Paraguay is the only country labeled as a Section 306 concern on this year's review. It was originally identified as a Priority Foreign Country in January of 1998 as part of a Special 301 Out of Cycle Review. The only Latin American country on the Priority Watch List in 2004, Paraguay, was downgraded as a threat this year due to its commitment to protecting intellectual property. The USTR remains concerned, however, with the nation's border enforcement, organized crime in counterfeiting and piracy operations, and lax enforcement of IPR laws in prosecution and deterrent sentences.

5. Selected Cases

A. Brazilian Orange Juice

Several DOC antidumping rulings regarding certain types of Brazilian orange juice affected the U.S. orange juice industry during 2005. Brazil, which accounts for 81% of the world's orange juice exports, is viewed as a major threat by the U.S., the second largest orange juice producer in the world.

First, on April 13, 2005, as a result of a 5-year sunset review, the DOC announced the revocation of its AD order on certain types of Brazilian frozen concentrated orange juice (FCOJ). These duties were originally ordered on May 5, 1987. The DOC's decision came after a March 2005 ITC determination that the removal of duties on these shipments of FCOJ would not cause foreseeable injury to U.S. industry. (For details, see Appendix D, (g))

Meanwhile, as a result of petitions from Florida citrus producers, including Florida Citrus Mutual of Lakeland, A. Duda & Sons of Oviedo, Citrus World, Inc. of Lake Wales, Peace River Citrus Products of Arcadia, and Southern Garden Citrus Processing Corporation of Clewiston, a new AD investigation began for imports of certain other Brazilian orange juice imports not included in the 1987 order. These imports of FCOJ and not from concentrate (NFC) juices were preliminarily found by the ITC to have AD margins between 24.62% and 60.29%, and by Mid-August of 2005 the DOC announced its preliminary decision to apply AD duties to these products. (For details, see Appendix B, (d))

Despite the duties, U.S. imports of orange juice are expected to rise 21% during the 2005/2006 season. This increase may be attributed to decreased citrus production in Florida during the particularly active 2004 hurricane season.¹¹ U.S. orange juice producers often mix Brazilian FCOJ with domestic juice during production, especially when U.S. citrus yields are low, as they have been this year.¹² Brazil enters the season prepared for the increased demand, with juice stocks above the normal level.

B. Mexican Cement Pact

Progress has been made this year toward ending a 15-year dispute over AD duties on Mexican cement imports. These duties, imposed by the DOC in 1990, are currently set at approximately US\$ 32.50 per ton.¹³ While cement imports from Mexico fell drastically in the 1990s as a result of these duties, increased demand has caused a cement shortage for U.S. builders and manufacturers in the past few years. An increase in building demands in Asia, tsunami relief, and the impact of the 2004 and 2005 hurricane seasons on the southeastern U.S. have also contributed to a worldwide supply shortage and an

¹¹ http://www.fas.usda.gov/ftp/Hort_Circular/2005/04-05/04-04-05%20Orange%20Juice%20Feature.pdf

¹² <http://www.ers.usda.gov/publications/agoutlook/dec2001/ao287a.pdf>

¹³ *Inside U.S. Trade, Mexico Offers to Restrict Cement Sales to Settle AD Case, Litigation*, July 1, 2005.

increase in cement prices.^{14,15} Hurricane Katrina in particular has presented the U.S. with a large increase in demand for building materials such as Mexican cement and Canadian lumber.

Mexico has proposed to export cement only to Florida, Alabama, Mississippi, Texas, New Mexico, Louisiana, California, and Arizona in quantities restricted by a quota. In return, AD duties on Mexican cement would be eliminated within three years. Mexican officials have also expressed their wishes that the import quota would be gradually reduced over time. If such a deal were implemented, however, all current cases of the World Trade Organization (WTO) and NAFTA regarding the conflict would be abandoned.¹⁶

C. The Cotton WTO Panel Report

On June 29, 2005 the U.S. Department of Agriculture (USDA) announced the first of various changes to its cotton export programs in order to comply with the July 1, 2005 deadline for eliminating prohibited subsidies (see Table 8). First, beginning on July 1, 2005 the USDA will use a risk-based fee structure for its Commodity Credit Corporation Export Credit Guarantee Program (GSM-102) and Supplier Credit Guarantee programs. Fee rates are based on the country risk that the Commodity Credit Corporation (CCC) is undertaking as well as the repayment term and frequency. Also, as of July 1, the CCC has ended its long-term (up to 10 years) Intermediate Export Credit Guarantee Program (GSM-103). Any remaining country and regional allocations for the program under fiscal year 2005 have been reallocated to the existing GSM-102 program. Finally, on July 4, 2005 the USDA announced additional changes specific to U.S. cotton support programs, including the elimination of the Step-Two Program.¹⁷ While the modifications to the export credit programs are merely administrative changes, the proposed elimination of the Step-Two Program is significant and requires Congressional approval. A repeal of the Step-Two program would remove both the export subsidies and import substitution subsidies cited by the WTO and address issues related to cotton price suppression in world markets.¹⁸

¹⁴ *Inside U.S. Trade, WTO Sides With U.S. in Procedural Matter in Mexican Cement Fight*, June 10, 2005.

¹⁵ http://www.governor.state.nm.us/press/2005/august/081005_1.pdf

¹⁶ *Inside U.S. Trade, Mexico Offers to Restrict Cement Sales to Settle AD Case, Litigation*, July 1, 2005.

¹⁷ *Washington Trade Daily, More Cotton Program Changes*, July 5 and 6, 2005.

¹⁸ *Washington Trade Daily, More Cotton Program Changes*, July 5 and 6, 2005.

Table 8
The WTO Cotton Dispute between the United States and Brazil

September 27, 2002 WTO dispute settlement case (DS267) was initiated by Brazil	September 8, 2004 Cotton Panel Report released by the WTO	March 3, 2005 Appellate Body Report on the cotton dispute published	March 21, 2005 DSB adopted the appellate body and panel reports on U.S. subsidies on upland cotton
<ul style="list-style-type: none"> • Brazil questioned the WTO compliance of certain U.S. domestic cotton supports. • Stated that some protection is inconsistent with certain U.S. obligations under the Agreement on Agriculture, the SCM Agreement and the GATT Uruguay Round. • Requested consultation with the U.S. regarding prohibited subsidies, actionable subsidies, legislation, regulations and statutory instruments and amendments thereto providing such subsidies (including export credits), grants and any other assistance to producers, users and/or exporters of upland cotton.¹⁹ 	<p>According to the report, the WTO Panel – established on March 18, 2003 by the Dispute Settlement Body (DSB) – found that:</p> <ul style="list-style-type: none"> • Various U.S. cotton support programs, including certain credit guarantee programs, do indeed fall under the definition of prohibited export subsidies. • The Step-Two Program²⁰ payments are prohibited import subsidies. • The U.S. must withdraw the prohibited subsidies before July 1, 2005. • Other support programs such as market loan program payments and counter-cyclical payments were identified as harmful. • The U.S. must take steps to remove the adverse effects of these subsidies, considered “actionable” under WTO standards, before September 21, 2005. 	<p>The Appellate Body Report largely dismissed U.S. objections raised against the original panel report. The appellate panel ruled:</p> <ul style="list-style-type: none"> • Most U.S. support programs for upland cotton involve unfair subsidies and suppress world prices. • U.S. production flexibility contract payments and direct payments are non trade distorting (green box) measures and should come under the disciplines of the WTO Agreement on Agriculture. • The U.S. Step-2 Program, the Market Loan Program, and Market Loss Assistance Payments all convey unfair subsidies to U.S. growers and have had a price-suppressing impact on global markets. • U.S. domestic support measures granted between 1999 and 2002 exceeded scheduled commitments set in 1992. Therefore, they were not subject to the “peace clause” exemption forbidding countervailing duties on agricultural exports. 	<p>The DSB ruled that</p> <ul style="list-style-type: none"> • The U.S. must eliminate the prohibited subsidy arrangements • The U.S. should remove the adverse effects of its cotton programs considered “actionable” under WTO definitions or do away with the programs completely.

Sources: World Trade Organization (<http://www.wto.org>, http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm8_e.htm); CRS Report for Congress, *U.S.-Brazil WTO Cotton Subsidy Dispute*, September 10, 2004; *Washington Trade Daily*, *WTO AB Segues US Cotton Ruling*, March 4, 2005.

The USDA’s decisions, according to the U.S. Secretary of Agriculture, demonstrate the U.S.’s intent to live up to its WTO obligations.²¹ Ending the Step-Two Program is expected to have some impact on cotton production, slightly lowering domestic prices – by two cents to three cents per pound – and raising export prices. However, anticipated declines in producer profits will likely spark an increase in counter-cyclical payments for

¹⁹ Brazil’s request defines the term “upland cotton” as raw upland cotton as well as primary processed forms of such cotton including upland cotton lint and cottonseed.

²⁰ “Step 2” pays US textile producers to use US cotton instead of foreign cotton, it also pays the US cotton producers the difference between the US domestic price for cotton and world market prices.

²¹ *Washington Trade Daily*, *AG announces some cotton changes*, July 4, 2005.

cotton farmers to offset the losses. US\$ 285 million was spent last year to support U.S. cotton prices under the programs in question.²²

After the expiration of the compliance period on September 21, 2005 Brazil asked the DSB to implement retaliatory measures of US\$ 1.037 billion against the U.S. The measures, likely in the form of suspension tariff concessions, would remain in place until the U.S. eliminates the subsidy programs in violation of the WTO panel rulings or removes the adverse effects for Brazilian firms. Brazil feels the circumstances have been serious enough to justify the suspension of concessions of obligations under other covered agreements, not limited to the cotton sector, because Brazilian producers of upland cotton will continue to suffer serious losses so long as the United States does not withdraw the measures at issue or remove their adverse effects.²³

On October 17, 2005, the U.S. informed the Chairman of the DSB that it objected to Brazil's proposal to suspend concessions of other obligations and the countermeasures other than in the disputed sector. In the view of the U.S., the countermeasures proposed do not match the degree of severity or the nature of the original violations. Accordingly, as required by the DSU (and consequently the SCM Agreement), "the matter shall be referred to arbitration".²⁴

The Agricultural Reconciliation Act of 2005 as approved by the Senate Committee on Agriculture, Nutrition and Forestry on October 19, 2005 ratified to eliminate Step-Two payments, effective beginning on August 1, 2006.²⁵ Congress is now in the process of repealing the program by July 31, 2006 and should complete its action sometime in November.

D. The Byrd Amendment

As of October 2005, three countries - Canada, the EU, and Japan - have imposed retaliatory tariffs against the United States in response to the Byrd Amendment. Actions by these countries follow a November 2004 decision by the WTO Dispute Settlement Body authorizing seven WTO members, including Japan, Korea, India, Brazil, Mexico, Canada, and the EU, to implement protectionist measures in response to U.S. failures to repeal the amendment.²⁶

Under the Byrd Amendment, or Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), the U.S. government distributes anti-dumping and countervailing duties collected by U.S. Customs to the domestic companies that bring forward alleged dumping cases. In 2004 alone the U.S. government paid out US\$ 284 million in

²² Washington Trade Daily, *More Cotton Program Changes*, July 5 and 6, 2005.

²³ World Trade Organization, *United States - Subsidies on Upland Cotton: Recourse to Article 7.9 of the SCM Agreement and Article 22.2 of the DSU by Brazil*, October 7, 2005. http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm

²⁴ World Trade Organization, *United States - Subsidies of Upland Cotton: Request by the United States for Arbitration under Article 22.6 of the DSU and Article 7.10 of the SCM Agreement*. October 18, 2005. http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm

²⁵ <http://www.cbo.gov/ftpdocs/67xx/doc6797/SenAgRecon.pdf>

²⁶ Inside U.S. Trade, *WTO Members Get Authorization to Retaliate Against U.S. Byrd Law*, December 3, 2004.

disbursements.²⁷ Critics argue that by excluding from compensation those companies or unions who do not support the petitions, the Byrd Amendment encourages companies that might otherwise decline to support petitions to do so simply to maintain eligibility for compensation. Moreover, foreign producers allege that the law forces them to subsidize their U.S. competitors.²⁸

In 2003, the WTO declared the Byrd Amendment in violation of international trade laws, but to date the U.S. has yet to repeal it. A series of decisions in the fall of 2004 have allowed seven WTO nations to impose protectionist duties equal to 72% of annual disbursements to U.S. firms in retaliation of the amendment.²⁹ Chile, one of eight successful co-complainants in the original case, is tentatively refraining from retaliation because of the U.S.-Chile Free Trade Agreement.³⁰

In March 2005, the EU and Canada both announced 15% tariffs on certain U.S. exports, effective May 1 of the same year. Under the WTO's decision, the EU is currently allowed US\$ 28 million in retaliation.³¹ Canada is allowed US\$ 14 million, and aside from its petitions to the WTO, the country has also filed a complaint with the U.S. Court of International Trade, attacking the Byrd Amendment as a violation of NAFTA laws.³² Following the example of the EU and Canada, Japan announced in August that it would implement its own 15% tariffs as permitted by the WTO, effective September 1, 2005. Japan's maximum is US\$ 51 million.³³

A Government Accounting Office (GAO) report released September 26, 2005 provides evidence supporting a revocation of the law. The report demonstrates that the Byrd Amendment has proven ineffective in protecting a majority of U.S. industries injured by unfair trade. According to the GAO, two-thirds of payments have been dispersed among just three industries: candles, steel, and bearings.³⁴ Furthermore, approximately half of the US\$ 1 billion in funds have been distributed among five large corporations.³⁵

Other flaws identified by the GAO include incentives for companies to exaggerate claims, a lack of verification of the validity of claims, and the absence of audits to assure that funds dispersed under the program are used appropriately.

²⁷ *Washington Trade Daily, Around the Globe*, January 31, 2005.

²⁸ <http://www.freetrade.org/pubs/FTBs/FTB-005.pdf>

²⁹ *Inside U.S. Trade, WTO Members Get Authorization to Retaliate Against U.S. Byrd Law*, December 3, 2004.

³⁰ *Washington Trade Daily, EU Takes Retaliation Against 'Byrd'*, November 11, 2004.

³¹ *Washington Trade Daily, Canada, EU Announce Byrd Retaliation*, April 1, 2005.

³² *Inside U.S. Trade, Canadian Government, Industry Groups Launch Attack on Byrd Law*, May 6, 2005.

³³ *Washington Trade Daily, Around the Globe*, August 2, 2005.

³⁴ <http://www.gao.gov/new.items/d05979.pdf>

³⁵ <http://www.gao.gov/new.items/d05979.pdf>

E. The Online Gambling Dispute

On April 20, 2005 the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body, regarding the online gambling dispute between Antigua and Barbuda and the United States. In the dispute, Antigua and Barbuda have contested the U.S.'s refusal to allow firms in those countries to provide online gambling services to U.S. customers. At the DSB meeting of May 19, 2005, the United States stated its intention to implement the DSB's recommendations and indicated that it would need a reasonable period of time to do so.³⁶

On August 19, 2005 a WTO arbitrator gave the U.S. until April 3, 2006 to implement its recommendations over Washington's restrictions on Internet gambling and betting services. It was said that the 11 month and two week time frame was reasonable since Antigua and Barbuda is a developing country. The United States had sought 15 months to change its law.³⁷

The WTO Panel on this case was established in August 2004. According to the original panel report, published in November 2004, the U.S. should permit the cross-border supply of gambling services.³⁸ The U.S., however, appealed this decision on January 7, 2005 arguing that the ruling is conducive to greater involvement of the WTO in domestic affairs, as U.S. law forbids trade in gambling services between states. In addition, the U.S. argued that gambling falls within the "sporting" exemption from the GATS. Agreeing with the U.S., the Appellate Body overturned much of the dispute panel ruling.³⁹ The Appellate Body asked the U.S. to bring its measures into compliance with the updated decision. U.S. trade officials praised the decision as a major victory.⁴⁰

F. Sugar

The U.S. sugar industry is one of the most protected sectors of the U.S. economy. The value of sugar imports is not determined by U.S. demand and market prices. It is governed largely by U.S. management of the domestic sugar market and trade commitments.⁴¹

In response to a perceived shortage of sugar in the U.S. market USDA decided to increase the Fiscal Year (FY) 2005 Overall Allotment Quantity (OAQ)⁴² by 250,000 short tons, raw value (STRV) to 8,350 million STRV on August 12, 2005. In order to accommodate this reassignment, USDA increased the FY 2005 Tariff Rate Quota (TRQ)⁴³. The TRQ reallocations for raw sugar cane for the rest of FY 2005 were

³⁶ *Inside U.S. Trade, Gambling Interests Could Complicate Effort to Comply with WTO Rulings*, June 24, 2005.

³⁷ *Washington Trade Daily, A WTO Arbitration Report on Gambling*, August 19 and 22, 2005.

³⁸ http://www.wto.org/english/tratop_e/dispu_e/285r_e.pdf

³⁹ *Washington Trade Daily, WTO AB Upholds US on Gambling*, April 8, 2005.

⁴⁰ *Inside U.S. Trade, WTO Says Gambling a U.S. Services Commitment, but U.S. Sees Way Out*, April 14, 2005.

⁴¹ <http://www.heritage.org/research/tradeandforeignaid/bg1868.cfm>

⁴² The OAQ is the quantity of domestic sugar that may enter the market.

⁴³ The TRQs are a combination of quotas and tariffs. They lead to high tariffs if a country sends more than its quota of sugar to the United States. The high tariff on the excess amount makes the excess sugar uncompetitive on the U.S. market.

published by the United States Trade Representative (USTR) on August 23, 2005 (see Table 9). The Secretary of Agriculture changed the in-quota quantity of the TRQ for raw cane sugar for FY 2005 by 84,447 STRV (76,609 metric tons, raw value [MTRV]) to 1,315,944 STRV (1,193,804 MTRV). Also, the USTR reallocated 53,409 metric tons from countries that were unable to fill their quota in FY 2005. The TRQs not mentioned remain unchanged from those announced on July 23, 2004.⁴⁴

Furthermore, on August 12, 2005 the USDA set the OAQ for FY 2006 at 8.6 million STRV. However, the USDA determined that FY 2006 domestic cane sugar production would be insufficient to meet its allocation under the OAQ. Therefore the USDA revised the cane portion, fixed it at 120,000 STRV, and reassigned it to the FY 2006 raw sugar TRQ which had been set to 1,231,497 on August 12, 2005. The 2006 raw sugar TRQ was increased to 1,351,497 STRV (=1,226,057 MTRV) (see Table 9). On August 30, 2005 the USTR announced the increased TRQ for raw cane sugar, refined sugar, and sugar-containing products for FY 2006.⁴⁵

Table 9 provides an overview of the country-by country allocations of LAC.

⁴⁴ <http://www.ustr.gov>

⁴⁵ <http://www.ustr.gov>

Table 9
Sugar Tariff-Rate Quotas for Latin American and Caribbean Countries
2004 - 2006 and Imports by these Countries in 2004

Country	TRQ allocation in metric tons for FY 2004 (raw cane sugar) announced 15/08/2003	Imported raw cane sugar FY 2004 entered through 08/02/04	TRQ allocation in metric tons for FY 2005 (raw cane sugar) announced 07/23/04	TRQ allocation in metric tons for the remainder (beginning Aug. 19, 2005) of FY 2005 (raw cane sugar) announced 08/23/05	TRQ allocation in metric tons for FY 2006 (raw cane sugar) announced 08/30/05
Argentina	45,281	22,818	45,281	8,890	50,000
Barbados	7,371	0	7,371		8,139
Belize	11,583	11,583	11,583	2,274	12,791
Bolivia	8,424	8,353	8,424	1,657	9,301
Brazil	152,691	143,845	152,691	29,977	168,603
Colombia	25,738	25,273	25,273	4,962	27,907
Costa Rica	15,796	15,796	15,769		17,442
Dominican Republic	185,335	134,471	185,335	1,220	204,649
Ecuador	11,583	11,583	11,583	2,274	12,791
El Salvador	27,379	27,379	27,379	5,375	30,232
Guatemala	50,546	50,546	50,546	9,923	55,831
Guyana	12,636	12,636	12,636	2,481	13,953
Haiti	7,258	0	7,258		7,258
Honduras	10,530	458	10,530	2,067	11,623
Jamaica	11,583	11,501	11,583		12,791
Mexico	7,258	1,274	7,258		7,258
Nicaragua	22,114	19,425	22,114	4,342	24,418
Panama	30,538	30,583	30,538	5,995	33,721
Paraguay	7,258	1,649	7,258		7,258
Peru	43,175	42,882	43,175	8,476	47,674
St. Kitts & Nevis	7,258	0	7,258		7,258
Trinidad & Tobago	7,371	0	7,371		8,139
Uruguay	7,258	7,258	7,258		7,258
Total LAC	715,964	579,313	715,472	89,913	786,295
Total World	1,117,195	850,447	1,117,195	TRQ Increase: 76,609 Reallocation: 53,409	1,226,057

Sources: The Office of the U.S. Trade Representative (<http://www.ustr.gov>); Economic Research Service of the U.S. Department of Agriculture (<http://www.ers.usda.gov/Briefing/Sugar/Doha/data.htm>)

Due to Hurricane Katrina, the USDA increased the FY 2005 OAQ by another 225,000 STRV on August 30, 2005. According to the Farm Bill, 122,288 STRV (54%) of the additional OAQ are assigned to the beet sector. The domestic sugar beet sector is expected to provide some 71,000 tons of refined sugar. However, no surplus cane sugar stocks exist in the country at this time. Since the CCC also has no sugar, the allotment is reassigned to imports, especially to refined sugar TRQ allocation and over-quota sugar entering from Mexico.⁴⁶ The USDA has assumed that 70,000 tons of over-quota sugar from Mexico will be available in FY 2005 because the out-of-quota tariff for Mexico has been reduced for Mexican sugar under NAFTA. It is now at a level that makes it economically feasible for Mexico to sell out-of-quota sugar into the U.S. market.⁴⁷ USDA announced a further increase of 105,000 STRV in FY 2005 OAQ on September 9, 2005. The 54% assigned to the beet sector made available all the refined sugar that beet processors can physically deliver to the market in September 2005. The cane sugar allotment again was reassigned to imports.⁴⁸

Also, on August 30, 2005 the USDA announced early entry of the FY 2006 refined sugar TRQ beginning September 8, 2005. Early imports are expected to be about 22,000 tons of refined sugar.⁴⁹ According to the USDA, the early opening of the FY 2006 quota will largely benefit Canada and Mexico because they hold assigned shares under the quota. In addition, some Latin American countries that supply the refined sugar quota on a first come, first served basis will benefit.⁵⁰ Also, the USDA increased the FY 2006 global TRQ for refined sugar by 75,000 STRV on a first-come, first-served basis on September 9, 2005. The global refined sugar TRQ (previously 7,815 STRV) is now 82,815 STRV. The Mexican and Canadian sugar TRQs are unchanged. Therefore, the total TRQ for FY 2006 is 129,013 STRV. The early entry of the FY 2006 refined sugar TRQ beginning September 8, 2005 also applies to this TRQ increase.⁵¹

Furthermore, the USDA announced on September 26, 2005 that in response to market disruptions caused by Hurricane Katrina, it would consider written requests for extensions of the time period for raw cane sugar shipments to enter the U.S. under the FY 2005 import TRQ.⁵²

G. Shrimp

On January 6, 2005 the ITC announced that it arrived at a unanimous decision to impose trade restrictions on shrimp imports from six countries –Brazil, the People’s Republic of China (China), Ecuador, India, Thailand, and the Socialist Republic of Vietnam (Vietnam)⁵³. The Commission determined that U.S. industry is materially injured by imports of certain non-canned warmwater shrimp and prawns from all six

⁴⁶ <http://www.usda.gov>

⁴⁷ <http://www.usda.gov>

⁴⁸ <http://usda.mannlib.cornell.edu/reports/erssor/speciality/sss-bb/2005/sss/244s.txt>

⁴⁹ <http://www.usda.gov>

⁵⁰ *Inside U.S. Trade, USDA Allows more U.S. Sugar into Market, Opens Refined Quota*, September 2, 2005.

⁵¹ <http://www.usda.gov>

⁵² http://www.fas.usda.gov/scripts/PressRelease/pressrel_dout.asp?Entry=valid&PrNum=0151-05

⁵³ *Washington Trade Daily, ITC Votes on Shrimp Imports*, January 7, 2005.

countries and that imports from Brazil, Ecuador and India of canned warmwater shrimp and prawns are negligible.

Concerning Brazil, Ecuador, India and Thailand, the petitioners complained that the DOC made a ministerial error with respect to its exclusion of “dusted” shrimp from the scope of the investigation in the final determination published on December 23, 2004. In addition, on December 30, 2004, the DOC received allegations from the petitioners that the Department also made ministerial errors in the final margin calculations. According to the affirmative findings of the ITC and according to the allegations of the petitioners, the amended scope of order and final margins were published in the Federal Register on February 1, 2005.⁵⁴

The shrimp case was initiated when the Ad Hoc Shrimp Trade Action Committee, which represents U.S. shrimp producers, the Versaggi Shrimp Corp. and the Indian River Shrimp Co., filed a petition with the DOC and the ITC against shrimp exporters from Brazil, Ecuador, India, Thailand, China and Vietnam on December 31, 2003. The preliminary determinations of sales at LTFV of certain frozen and canned warmwater shrimp from Brazil, Ecuador, India and Thailand were published by the DOC on August 4, 2004. However, based on the analysis of the comments received, the final determinations, published on December 23, 2004, differ from the preliminary determinations.⁵⁵

U.S. petitioners qualify for compensation from the revenue of the tariff under the Byrd Amendment, which has been determined illegal by the WTO, but has not yet been repealed by the U.S. Congress. The Consuming Industries Trade Action Coalition (CITAC) warned that the Byrd Amendment created an incentive for the companies to gain money by filing trade petitions against shrimp imports. The trade petitions filed against shrimp imports from the six developing nations were requested by a small segment of the domestic shrimp industry. The problem is that approximately 90 % of total U.S. shrimp consumption must be served by imports to meet the huge demands of the U.S. market for shrimp. U.S. shrimpers simply cannot catch more shrimp than currently supplied to the market because they catch shrimp on open waters.⁵⁶

⁵⁴ Federal Register: February 1, 2005.

⁵⁵ Federal Register: December 23, 2004.

⁵⁶ <http://www.citac.info/shrimp>

Another issue of the shrimp case is that in December 2004 the Thai government presented a case at the WTO against “zeroing” in the shrimp antidumping case. Thailand charged that the so-called “zeroing” methodology (see Box 1) inflated dumping margins on imports of shrimp. This method of calculating dumping margins is controversial because the DOC ignores all sales that have a negative dumping margin when examining different sales of a product to calculate the overall dumping margins.⁵⁷ It has been found to violate the WTO Antidumping Agreement. Brazil is also participating in the WTO consultation. Ecuador, India and China are also seeking to participate.⁵⁸

Box 1
The “Zeroing” Method

The “zeroing” method unfolds as follows:

1. The DOC establishes the weighted-average net value of the imported good.
2. The DOC calculates the weighted-average net value of the most similar good created in the domestic market.
3. The DOC compares both prices, giving those foreign goods that have a lower price than the domestic a positive margin value, and giving those goods that have equal or a higher price than the domestic a value of zero, rather than negative.

“Zeroing” effectively excludes from its calculations goods that may lower the overall margin, distorting antidumping duties which are derived from such margins.

Source: Center for Trade Policy Studies, *Zeroing In: Antidumping's Flawed Methodology under Fire*. April 27, 2004.

H. Customs Records Destroyed in 9-11 Attacks

In September 2005, U.S. Customs and Border Protection (CBP) announced its request for reconstructed records for goods whose original documentation was destroyed in the 9-11 terrorist attacks on the World Trade Center. The agency has been instructed by the Department of Commerce to liquidate entries for these shipments and assess final antidumping and countervailing duties. It has warned importers that if they do not provide reconstructed entry summaries, they will face rates based on “best available information,” and duty payments may turn out to be higher than they otherwise would have been.⁵⁹

In addition, the CBP is calling for copies of certificates of reimbursement from each affected importer. These certificates are proof that exporters did not reimburse importers for the duties paid at Customs. If importing firms cannot produce these certificates, they may face doubled AD or CVD rates.⁶⁰

This is not the first time the CBP has requested documents lost in the 9-11 attacks. It has made several calls for documents from the public in response to protests by importers regarding duty rates they feel to have been incorrectly assessed. According to CBP representatives, this particular document request applies to 12,000 entries worth US\$ 10 million. Importers have been strongly urged to submit their records, as the impact of a discrepancy in duty rates will vary greatly among different companies. An inaccurate assessment of duties may not deeply affect a large company with several small entries,

⁵⁷ Inside U.S. Trade, *Thailand requests WTO consultations on U.S. Shrimp AD Duties*, December 17, 2004.

⁵⁸ Inside U.S. Trade, *EU, Japan among those seeking participation in Shrimp consultations*, January 7, 2005.

⁵⁹ Inside U.S. Trade, *CBP Asks Importers to Resubmit Records Destroyed in 9/11 Attacks*, September 2, 2005.

⁶⁰ <http://www.strtrade.com/advisory.asp?firm=STTAS&id=238>.

but it could amount to a great deal of money for a small company with one large shipment.⁶¹

⁶¹ Inside U.S. Trade, *CBP Asks Importers to Resubmit Records Destroyed in 9/11 Attacks*, September 2, 2005.

III. Agricultural Supports

The following U.S. export programs are currently being implemented in the U.S. and may be eliminated or changed upon implementation of the Doha Round.

1. Export Subsidy Programs

These USDA programs are meant to stimulate U.S. agricultural exports and make U.S. agricultural products more competitive abroad through direct payments to producers and exporters. The FY 2006 budget for export subsidy programs is US\$ 90 million.⁶²

A. Export Enhancement Program

The Export Enhancement Program (EEP), approved in 1985 during a period of large grain stocks and low prices, was extended through 2007 by the 2002 Farm Act. US\$ 478 million per year was approved for the program, through which U.S. agricultural exporters receive cash bonuses. These bonuses are meant to make U.S. goods more competitive abroad, as well as counter trade-distorting subsidies, sanitary and phytosanitary restrictions, and other unfair trade practices.⁶³

No EEP payments have been made in recent years, and as a result, no provisions were made in the FY 2004 USDA budget for the program.⁶⁴ The 2005 and 2006 budgets, however, included allocations of US\$ 28 million for the program.⁶⁵

B. Dairy Export Incentive Program

The Dairy Export Incentive Program (DEIP) is a program similar in nature to the EEP that focuses specifically on market development for U.S. dairy products. The program, started in 1985, was renewed until 2007 under the Farm Act of 2002. It assists dairy exporters with cash bonuses within the World Trade Organization limits. Allocations for FY 2005 were for 68,201 metric tons of nonfat dry milk, 21,097 tons of butterfat, and 3,030 tons of cheeses.⁶⁶ For that year, a total program level of US\$ 53 million was budgeted, but only an estimated US\$ 6.0 million was used.^{67,68} US\$ 52 million has been budgeted for FY 2006.⁶⁹ According to the USDA's Foreign Agricultural Service, the budgeted amount "reflects the level of subsidy currently required to facilitate export sales consistent with projected U.S. and world market conditions."⁷⁰

⁶² http://www.usda.gov/agency/obpa/Budget-Summary/2006/06_FFAS.htm.

⁶³ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁶⁴ Congressional Budget Office, *Policies that Distort World Trade: Prevalence and Magnitude*, August 2005, p. 39.

⁶⁵ http://www.usda.gov/agency/obpa/Budget-Summary/2006/06_FFAS.htm.

⁶⁶ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>.

⁶⁷ <http://www.ncseonline.org/NLE/CRSreports/04dec/RL32301.pdf>.

⁶⁸ http://www.usda.gov/agency/obpa/Budget-Summary/2006/06_FFAS.htm.

⁶⁹ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>.

⁷⁰ <http://www.fas.usda.gov/info/speeches/ct030305.html>.

2. Market Development Programs

These USDA programs help to expand demand for U.S. agricultural products abroad. US\$ 173 million has been budgeted in FY 2006 to fund these programs.⁷¹

A. Market Access Program

The Market Access Program (MAP) uses CCC funds to help create, expand, and maintain foreign markets for U.S. agricultural products. The MAP consists of a partnership between non-profit U.S. agricultural trade associations, U.S. agricultural cooperatives, non-profit state and regional trade groups, small U.S. businesses, and the CCC. This partnership serves to share the costs of overseas marketing and promotional activities like consumer promotions, market research, trade shows, and trade servicing.⁷² US\$ 125 million is budgeted for the MAP in 2006, a decline in US\$ 15 million from FY 2005.⁷³

B. Foreign Market Development Program

The Foreign Market Development Program (FMDDP), authorized by the Agricultural Trade Act of 1978, is similar to the MAP in that it supports nonprofit trade organizations in market development efforts. This program specifically provides funding for long-term efforts to increase foreign imports of U.S. products, especially those in the fishery, forestry, and agricultural industries.⁷⁴ As in fiscal years 2004 and 2005, US\$ 34 million was budgeted for the program in 2006.⁷⁵

C. Emerging Markets Program

The Emerging Markets Program (EMP) was authorized under the 1990 Farm Bill to increase U.S. agricultural export opportunities in new markets through the funding of public and private research, technical assistance, and development projects. The program provides US\$ 10 million in assistance each year to support programs to foster capacity building, new market development, trade dispute resolution and trade missions.⁷⁶

As in years past, the FY 2006 budget for the EMP is US\$ 10 million.⁷⁷ On July 18, 2005, the USDA announced the distribution of the US\$ 10 million in FY 2005 funds to 71 trade promotion projects. 11 projects in Central and South America and in the Caribbean were funded with a total of over US\$ 1.76 million.⁷⁸ Over half of these projects focus specifically on market development in Mexico.

⁷¹ <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁷² http://www.wto.org/english/tratop_e/tp226e.htm

⁷³ <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁷⁴ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁷⁵ <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁷⁶ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁷⁷ <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁷⁸ http://www.fas.usda.gov/scripts/PressRelease/pressrel_dout.asp?Entry=valid&PrNum=0108-05

D. Quality Samples Program

The Quality Samples Program (QSP) is intended to foster interest in U.S. agricultural products by providing free samples to foreign importers. The USDA reimburses U.S. exporters who ship samples abroad and provide workshops highlighting the quality of U.S. agricultural products and the best ways to use or further process the products as intermediate goods.⁷⁹

As in fiscal years 2004 and 2005, the USDA has budgeted US\$ 2 million for the program in 2006.⁸⁰ The 2005 budget covered allocations of over US\$ 1.67 million to 16 program participants, including the California Table Grape Association and the Western U.S. Agricultural Trade Association.⁸¹

3. Export Finance Programs

The USDA's Foreign Agricultural Service administers four export-credit guarantee on behalf of the CCC. These programs help ensure that credit is available to finance commercial exports of U.S. agricultural products, while providing competitive credit terms to buyers. Approximately US\$ 4.528 billion was allocated to these programs from the FY 2005 budget. US\$ 4.396 billion has been budgeted for 2006.⁸²

A. Export Credit Guarantee Programs

Under the Farm Act of 2002, the Export Credit Guarantee Programs (GSM-102 and GSM-103) are granted a minimum annual program level of US\$ 5.5 billion.⁸³ The GSM-102 is the largest U.S. export promotional program of the CCC. It is designed to encourage U.S. agricultural exports to eligible developing countries where financing may be unavailable. The program guarantees repayments of short-term loans (90 days to 3 years) extended to foreign banks by U.S. exporters or financial institutions.⁸⁴

On July 1, 2005, as a result of WTO rulings that fees charged by financing organizations such as the CCC should be risk-based, the fee rate structure for the program was changed. Rates are now not only based on the repayment term and frequency, but on country risk as well.⁸⁵ Additionally, the Intermediate Export Credit Guarantee or GSM-103 program was eliminated under this legislation. This program was similar to the GSM-102 but with a 3- to 10-year financing period. WTO members felt it offered an "implicit subsidy" because the longer repayment period was more risk prone than a shorter one.⁸⁶ Any remaining allocations under the program were converted to the GSM-102 program as of July 1.⁸⁷

⁷⁹ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁸⁰ <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁸¹ <http://www.fas.usda.gov/mos/programs/QSP%202005%20Allocation.htm>

⁸² <http://www.usda.gov/agency/obpa/Budget-Summary/2006/06.FFAS.htm>

⁸³ <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁸⁴ <http://www.fas.usda.gov/info/factsheets/gsm102-03.asp>

⁸⁵ <http://www.usda.gov/wps/portal/!ut/p/.s.7.0.A/7.0.1OB?contentidonly=true&contentid=2005/07/0242.xml>

⁸⁶ <http://www.us-mission.ch/DailyBulletin/2005/JUL.Y/0706db.pdf>

⁸⁷ <http://www.usda.gov/wps/portal/!ut/p/.s.7.0.A/7.0.1OB?contentidonly=true&contentid=2005/07/0242.xml>

Table 10
GSM-102 Allocations and Applications for Coverage
Allocations Fiscal Year 2005, as of September 9, 2005 (Millions of Dollars)

Countries	Announced Allocations FY 2005	Exporter Applications Received	Balance
Caribbean	300	74.20	225.8
Central America	505	275.70	229.3
Mexico	230	62.3	167.7
South America	900	349.4	550.6
TOTAL	1935	761.4	1173.4

Source: U.S. Department of Agriculture (<http://www.fas.usda.gov/excredits/Monthly/ecg.html>)

As of October 2005, FY 2006 allocations were only available for the Mexico and the Caribbean region. These allocations are set at US\$ 200 million and US\$ 250 million, respectively.^{88, 89}

⁸⁸ http://www.fas.usda.gov/scripts/PressRelease/pressrel_dout.asp?Entry=valid&PrNum=0164-05.

⁸⁹ http://www.fas.usda.gov/scripts/PressRelease/pressrel_dout.asp?Entry=valid&PrNum=0154-05

B. Supplier Credit Guarantee Program

The Supplier Credit Guarantee Program (SCGP), like the GSM-102, is designed to encourage U.S. agricultural exports to eligible developing countries where credit may be difficult to secure. As in the GSM-102, the CCC guarantees importers' payments. However, in this case, only 65% of payments are covered, substantially less than under the GSM. Additionally, the SCGP is for short-term extensions of credit only – up to 180 days. The U.S. exporter can extend the direct credit to the importer for the purchase of U.S. agricultural products. In this case the credit must be secured by a promissory note signed by the importer. Banks in the developing country are not involved.⁹⁰

Table 11
SCGP Allocation and Applications for Coverage
Allocations Fiscal Year 2005, as of September 9, 2005 (Millions of Dollars)

Countries	Announced Allocations	Exporter applications Received	Balance
Caribbean	10	.29	9.71
Central America	55	54.85	.15
Mexico	600	316.42	283.58
South America	20	11.75	8.25
TOTAL	685.00	383.31	301.69

Source: U.S. Department of Agriculture (<http://www.fas.usda.gov/excredits/Monthly/ecg.html>)

As of October 2005, the USDA had not yet announced the FY 2006 allocations for Latin American or Caribbean regions under the SCGP Program.

C. Facility Guarantee Program

The Facility Guarantee Program (FGP) was implemented in December 1997 to increase exports of U.S. agricultural products to emerging markets which may not yet have the required capital, storage capacity to take full advantage of trade. The program guarantees payments to U.S. exporters of capital goods and services used to improve facilities in developing foreign markets. 95% of the principal of payments from approved exporters or foreign banks is typically covered.⁹¹ In FY 2004, US\$ 187 million in coverage was announced for sales to seven countries and seven regions. No sales were registered under this program in FY 2004 or 2005.^{92, 93}

⁹⁰ <http://www.fas.usda.gov/info/factsheets/scgp.asp>

⁹¹ http://www.fas.usda.gov/info/factsheets/fgp_fact.asp

⁹² <http://www.fas.usda.gov/excredits/quarterly/2004/2004-sum.htm>

⁹³ <http://www.fas.usda.gov/excredits/Monthly/ecg.html>

Table 12
FGP Allocation and Applications for Coverage
Allocations Fiscal Year 2005, as of September 9, 2005 (Millions of Dollars)

Countries	Announced Allocations	Exporter Applications Received	Balance
Caribbean Region	10.00	0.00	10.00
Central America	30.00	0.00	30.00
Mexico	20.00	0.00	20.00
South America Region	10.00	0.00	10.00
TOTAL	70.00	0.00	70.00

Source: U.S. Department of Agriculture as of April 8, 2005 (<http://www.fas.usda.gov/excredits/Monthly/ecg.html>)

As of printing, the USDA had not yet announced the FY 2006 allocations for Latin American or Caribbean regions under the SCGP Program.

IV. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 represents one of the most significant changes in U.S. food import requirements in recent years. Its aim is to enhance the security of the United States with respect to its food supply. Title III of the Bioterrorism Act establishes "Protecting Safety and Security of Food and Drug supply," outlining the security mechanisms implemented by the U.S. Government to evaluate all food entering the country to ensure it does not pose any serious or adverse health threats to humans or animals in the United States.⁹⁴

In particular, the Bioterrorism Act established new requirements in the process of exporting to the U.S., some of which include:

- Protection against food adulteration
- Administrative detentions
- Registration of food facilities
- Maintenance and inspection of food records
- Prior notice of imported food shipments

The Food and Drug Administration (FDA) and the U.S. CBP agreed to implement the Bioterrorism Law in an eight-month phase-in period (Table 13).

Table 13
Time Table for Bioterrorism Law Phase-In Period

Phase One December 12, 2003 to March 12, 2004	Phase Two March 13, 2004 to June 3, 2004	Phase Three June 4, 2004 to August 12, 2004	Phase Four Came into effect on August 13, 2004
FDA and CBP were educate the trade community to achieve compliance with prior notice requirements.	FDA and CBP pursue informed compliance prior to the issuance of any BTA-related penalty action. FDA provided information to CBP regarding those entities that failed prior notice data as required.	FDA continued to notify CBP of violators of the Law on Bioterrorism, such as inaccurate filing of prior notice or importation from an unregistered facility. Port directors issued informed compliance notices to violators. CBP, in cooperation with FDA, was able to assess civil monetary penalties for violations.	All violations, regardless of category or type, may be subject to civil monetary penalties, and the associated merchandise will be refused admission to the U.S.

Source: U.S. Customs, Special Trade Enforcement Division
http://www.cbp.gov/linkhandler/cgov/import/commercial_enforcement/bioterrorism/external_bt_procedures.ctt/external_bta_procedures.doc

⁹⁴ http://www.cbp.gov/xp/cgov/import/commercial_enforcement/bioterrorism/bioterrorism_act.xml

1. Title III – Safety of Food and Drug Supply

A. Section 302 – Protection against Food Adulteration

Section 302 of the Bioterrorism Law demands an increase in the number of food inspections of products entering the U.S. and requests an improvement in the information management systems of the Food and Drug Administration.⁹⁵

The FDA has been designated as one of the main bodies to coordinate and track all information regarding food imported for human consumption. The FDA also has been assigned to develop various programs to improve food security, which include measures that place FDA officers in U.S ports to inspect all cargo coming to the country and the implementation of a more complex and effective information system.⁹⁶

The new FDA information system, the Operational and Administrative System for Import Support (OASIS), works in conjunction with the Custom Automated Commercial System (ACS) to coordinate and evaluate all information related to food entering the U.S. The purpose of OASIS is to speed up approval of FDA regulated products by integrating all aspects of the process into one digital system. This is designed not only to streamline the approval process, but also to bring consistency to FDA enforcement decisions at all 480 U.S. ports of entry. With OASIS, 85% of shipments are cleared without any paper submission; previously, all shipments required documentation for approval.⁹⁷

In addition, FDA inspection officers located at U.S. ports are able to detain any products not accompanied by the proper U.S. Government documentation or that may have an adverse effect on human or animal health in the U.S (see Box 2).⁹⁸

Box 2

Detained Food

The FDA has created regulatory procedures for enforcement actions against detained food. The food may be detained for a period of no longer than 30 days, and must be labeled or marked as a detained product. Food that has been detained cannot be delivered to another entity or to the importer, owner or consignee, or removed from the place where it is detained until an authority from the FDA releases the product or the detention period expires. When the product has been detained, any person who is entitled to claim the food may appeal the order to the FDA. For perishable food, as is the case for many products coming from Latin America and the Caribbean, an appeal must be presented within two calendar days of receiving the detention. On the other hand, for non-perishable food, the appeal must be presented within four calendar days. As a result, U.S. food importers and shippers have expressed particular concerns over how and when the FDA will detain shipments since many companies have noted that mistaken delays are very costly, in terms of both food quality and idle equipment. Latin American and Caribbean countries are particularly affected because most commodities sent from the region are perishable.

Source: Title III-Protecting Safety and Security of Food and Drug Supply; Public Health and Bioterrorism Preparedness Response Act of 2002

⁹⁵ <http://www.cfsan.fda.gov/~dms/sec-ltr.html#sec302>

⁹⁶ <http://www.cfsan.fda.gov/~dms/sec-ltr.html#sec302>

⁹⁷ http://www.fda.gov/ora/import/oasis/home_page.html

⁹⁸ Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Title III

B. Section 303 – Administrative Detentions

The Bioterrorism Law also requires that all food imported to the United States enter with additional labeling information such as a detailed description of the product, and certification of the country of origin when necessary. Otherwise, the product will not be allowed to enter the country and will be detained by officers located at the port of entry.⁹⁹ Furthermore, additional cost for detention will be applied to the company responsible for the product. Therefore, exporters should be prepared to meet all the new requirements to avoid paying any penalties and fees.

In the analysis of the economic impacts of the Bioterrorism Act, the FDA recognized a number of costs resulting from the administrative detentions. These include:

- Additional transportation to a secure storage facility (US\$ 0 to US\$ 4 million)
- Additional storage (US\$ 0 to US\$ 2 million)
- Delay of conveyances that contain detain products (US\$ 0 to US\$ 4 million)
- Loss of product value for foods with limited shelf lives (US\$ 0 to US\$ 22 million)
- Marking or labeling of detained products (US\$ 0 to US\$ 2 million)
- Costs of appeals of administrative detentions (US\$ 0 to US\$16 million)

The party or parties responsible for paying the storage costs of food detained administratively is a matter between the private parties involved with the food. The FDA is not liable for these costs. The Bioterrorism Act does not provide the FDA with the authority to compensate firms for costs associated with administrative detention. In compliance with the FDA's Final Rule of Administrative Detentions, the estimated annual costs of this measure will range between US\$ 0 and US\$ 50 million.¹⁰⁰

According to the FDA's OASIS database, Colombia, Ecuador, and Peru had 256, 101, and 84 administrative detentions respectively between October 2004 and September 2005.¹⁰¹ The value of goods, outcome of the detentions, and detention costs are not available from the OASIS database.

⁹⁹ <http://www.cfsan.fda.gov/~dms/fsbtac21.html>

¹⁰⁰ <http://www.cfsan.fda.gov/~lrd/fr040604.html>

¹⁰¹ http://www.fda.gov/ora/oasis/10/ora_oasis_cntry_lst.html

C. Section 305 – Registration of Food Facilities

The FDA requires that any domestic or foreign company engaged in “manufacturing, processing, packing, or holding food for consumption in the United States” should be registered with the FDA.¹⁰² This mechanism permits the FDA to determine the location and source of all food that enters the country;¹⁰³ therefore, every warehouse located in Latin America and the Caribbean that holds food to be exported to the United States needs to be registered with the FDA. Otherwise, the food will be detained at the port of entry to the U.S. In addition to registration, the FDA requires that every foreign company designate an agent registered with the FDA to provide it with all the information for daily operations to avoid them having to contact the foreign company directly.

Contracting a single U.S. agent costs Latin American and Caribbean exporters between US\$ 700 and US\$ 1,000 per year. As a result, some countries, such as Costa Rica and Ecuador, have provided their own service to exporters that do not already have a U.S. agent (see Box 3). The Aero-commercial Office is an office for Costa Rican exporters located in Miami, Florida. Ecuador, through the Corporation to Promote Exports and Investments (CORPEI), has assigned an agent in Miami to represent Ecuadorian companies that do not yet have an agent in the U.S.

Box 3
Implementation Preparedness –
Costa Rica

Costa Rica created a national commission integrated by the public and private sector in order to unify efforts to facilitate the implementation of the Bioterrorism Law among companies exporting to the U.S. Some of the members of the Costa Rica commission are: The Department of Phytosanitary Services, the Department of Agriculture, The Department of International Trade, the Chamber of Exports, etc. The commission has provided training classes since 2003 and it has facilitated not only locations for the exporters to register, but also internet connection for all the companies involved in this project that may need it.

As of January 18, 2005 there are 131,086 registered foreign facilities, of which 24,963 are in Latin America and the Caribbean. The following are some examples of facility concentration among countries: Bolivia – 148, Colombia – 2081, Argentina – 1994, Brazil – 2643, Jamaica – 386, Mexico – 8453, Paraguay – 100, Trinidad and Tobago – 200, Ecuador – 3136, Peru – 1225.¹⁰⁴

The FDA conducted an analysis of the economic impact of the Bioterrorism Act and estimated that it would take between 5 and 15 hours for a foreign facility to hire a U.S. agent, depending on whether the facility had Internet access and its personnel were fluent in English. The FDA also assumed that 16 percent of manufacturers, those who export 10 or fewer line entries to the United States, would rather stop exporting to the U.S. than incur the expense of registering, hiring a U.S. agent, and providing prior notice.¹⁰⁵

¹⁰² The information required in the registration form is the name, address, and phone number for the facility and its parent company, the name, address, and phone number of the owner, operator, or agent in charge; all trade names the facility uses; applicable food product categories as identified in FDA’s regulations (21 CFR 170.3). <http://www.fda.gov/oc/bioterrorism/bioact.html>.

¹⁰³ <http://www.cfsan.fda.gov/~dms/fsbtac12.html>

¹⁰⁴ <http://www.cfsan.fda.gov/~furl/ffregsum.html>

¹⁰⁵ FDA, Interim Final Rule: Registration of Food Facilities (68 FR 58894)

Finally, the FDA also requires that every foreign company register an emergency contact if this contact is different from the agent located in the United States. The FDA strongly urges companies to register online since it allows for faster and easier collection of information. However, other methods, such as mail or CD-ROM, may be used as well.¹⁰⁶ Thus, the FDA is able to track as much information as possible about companies involved in the process of exporting products to the United States.¹⁰⁷

D. Section 306 – Maintenance and Inspection of Records for Foods

Foreign persons are excluded from all requirements of Section 306, except for foreign persons who transport food within the United States. The FDA requires domestic persons to keep all records related to the manufacture, processing, packaging, transportation, distribution, receipt, holding or importation of food. In addition, persons who place food directly in contact with its finished container are required to maintain records as well. Records must be kept for no longer than two years, depending on the type of food being handled. There is no special format to create or keep any records, but all information required by the FDA must be included. Thus, in the case of detention, the pertinent records are provided to the FDA upon request.¹⁰⁸ The FDA is charged with collecting and analyzing all the information necessary in the smallest amount of time possible and keeping this information confidential.

According to the FDA's economic impact analysis, the estimated costs of establishing and maintaining records include US\$120 per facility in learning costs, US\$411 in records redesign, and US\$219 of additional records maintenance.¹⁰⁹ Since the law covers more than 1 million entities, the total cost amounts to approximately US\$1.41 billion or annualized costs of US\$108,000. The estimated annual benefits from enhanced food safety range from US\$ 7 million to US\$25 million, not including the benefits from enhanced food security.¹¹⁰

E. Section 307 – Prior Notice of Imported Food Shipments

The Law on Bioterrorism requires that all information provided by importers or brokers to the Bureau of Customs and Border Protection be provided to the FDA no more than five days before, or within at least eight hours of, arrival to the United States (see Figure 2). The FDA is therefore able to review and evaluate all information submitted to determine whether to inspect any imported food at the U.S. port. The prior notice must be submitted electronically to the FDA, and has to contain the name of the food, the name of the manufacturer, the shipping company, the country of origin, etc. The FDA will issue a

¹⁰⁶ <http://www.cfsan.fda.gov/~furls/ovffreg.html> , <http://www.cfsan.fda.gov/~furls/frm3537.pdf>

¹⁰⁷ Many companies from Latin America and Caribbean countries involved in exporting food to the U.S may not have internet access or may not know how to register with the FDA; therefore, countries like Nicaragua, Guatemala and Costa Rica have created special commissions to advise their exporters on the implications of the Law on Bioterrorism and the registration process. (<http://www.actualidad.co.cr/290/20.apertura.html>)

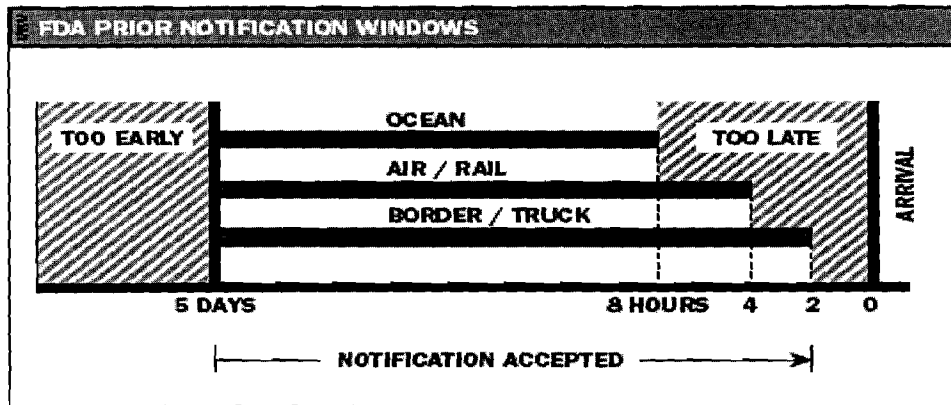
¹⁰⁸ http://www.fda.gov/oc/bioterrorism/records_fs.html

¹⁰⁹ <http://www.cfsan.fda.gov/~dms/fsbtac25.html>

¹¹⁰ <http://www.cfsan.fda.gov/~dms/frrecord.html>

confirmation of prior notice to the transmitter upon successful receipt of the prior notice information.¹¹¹

Figure 2
FDA Prior Notification Windows



Source: www.fda.gov

The FDA estimates that the costs of the system of prior notice will be about US\$ 367 million in the first year and US\$ 261 million in later years. Regarding the benefits the FDA mentions, above all, the reduction of opportunity costs because the prior notice system may significantly reduce the costs of a terrorist attack on the food supply as compared to not having the system.¹¹²

¹¹¹ <http://www.cfsan.fda.gov/~dms/fsbtac13.html>

¹¹² <http://www.cfsan.fda.gov/~lrd/fr03o10b.html#V>

2. Security Programs

In addition to the Law on Bioterrorism, the U.S. Government has implemented several new security programs that have had a direct effect on exports to the U.S. market.

A. Container Security Initiative Program

The U.S. Government introduced the Container Security Initiative Program (CSI) to strengthen the security of the international maritime container trade system. CSI went into effect in January 2002. Each year, more than 16 million containers arrive in 301 ports in the United States. Containers are increasingly vulnerable to terrorist misuse.¹¹³

In fiscal year 2004, almost 10 million sea containers entered the United States, nearly a million more than in FY 2003 and 2 million more than entered in FY 2002. The number of trade entries that U.S. Customs and Border Protection (CBP) processed over the eight years from FY 1996 through FY 2004 increased 75 percent (16 million in FY 1996 to 28 million in FY 2004). CBP's automated commercial-trade calculations predict continued growth of about 7 percent a year and estimate that the number of vessel containers in circulation will increase about 14 percent a year.¹¹⁴

The CSI has implemented special mechanisms to increase U.S. port security through intelligence and automated information systems to identify high-risk containers. CSI also allows containers to be pre-screened before arrival in the United States.¹¹⁵ Furthermore, the U.S. has stationed U.S. Customs officials in foreign ports in order to screen containers prior to loading onto any ship destined to the U.S., which enables U.S. Customs to determine which containers may be "high risk" and which ones are not. Thirteen countries have signed on to the CSI program.¹¹⁶

CSI was implemented initially at 20 of the ports that ship the highest volume of sea containers to the United States. These 20 ports account for two-thirds of all maritime containers shipped to the United States. By October 2005, 40 ports had become operational, two of them in Latin America and the Caribbean. These are Santos (Brazil) and Buenos Aires (Argentina).¹¹⁷

Exporters are concerned because many countries in Latin America and the Caribbean have not yet implemented the Container Security Initiative and the screening process in U.S. ports may take between 2 to 6 days.¹¹⁸ The criteria for new CSI ports given by CBP makes it costly for any port to initiate the CSI program; the criteria outlines how every port must have inspection equipment such as gamma- or X-ray

¹¹³ http://www.cbp.gov/xp/cgov/newsroom/press_releases/archives/legacy/2002/112002/11012002_4.xml

¹¹⁴ http://www.cbp.gov/xp/CustomsToday/2005/Jul_Aug/csi.xml

¹¹⁵ Organización Mundial del Comercio, *Examen de las Políticas Comerciales, Estados Unidos*, Informe de la Secretaria. WT/TPR/S126

¹¹⁶ http://www.cbp.gov/xp/cgov/newsroom/press_releases/archives/legacy/2002/22002/02222002.xml

¹¹⁷ http://www.cbp.gov/xp/cgov/newsroom/press_releases/0052005/05112005.xml

¹¹⁸ Greater Miami Chamber of Commerce, *The Impact of Post-9/11 Security Measures on South Florida's International Business Community*, October 2003.

machines and radiation detection equipment available. Every port must establish an automated risk management system, and the port authorities must share critical data, intelligence, and risk management information with U.S. CBP officials.

Despite the cost of implementing the CSI, however, the benefits of adopting the new security measures will be tangible in the event of a terrorist attack. The only containers allowed at U.S. ports are those that have been screened by U.S. officials under CSI jurisdiction. Therefore, CSI provides a competitive advantage for any port in the international market.¹¹⁹ As a result, the CSI program can be understood as a more coordinated approach to improve the security of commercial shipping worldwide.

B. The 24-Hour Advance Vessel Manifest Rule

Another U.S. security measure that has affected exporters is the 24-Hour Advance Vessel Manifest Rule that went into effect in December 2002. This rule applies to CSI and non-CSI ports and consists of sending information electronically to the CBP 24 hours before the cargo is loaded onto a vessel in a foreign port. By April 2003, about 260 containers with inadequate cargo description were denied loading for violation of the 24-hour rule.¹²⁰ U.S. Custom's Automated Manifest System provides the information collected under the 24-hour rule; in addition to information already required, more information must be provided.

C. The Customs Trade Partnership Against Terrorism and the Free and Secure Trade Program

Finally, the Customs Trade Partnership against Terrorism (C-TPAT) is a cooperative program between the U.S. Government and the U.S. business sector to strengthen U.S. national and border security. It is a voluntary program in which businesses are committed to the integrity of their security practices under certain guidelines. Importers, brokers, manufactures, warehouses, air carriers, sea carriers, land carriers, air freight consolidators/ocean transportation intermediaries, and non vessel-owning common carriers (NVOCCs) assume the obligation to develop and implement a number of measures designed to develop a secure framework for manufacturing, production, cargo storage, handling facilities, and transportation.¹²¹

The measures to be implemented cover physical security, access controls, procedural security, personal security, education and training, etc.¹²² Since the C-TPAT program works on incentives, it has gained broad support in the private sector. C-TPAT gives private companies a competitive advantage in the implementation of policies and requirements necessary to make the importing process into the U.S. more effective and efficient. In the first year, more than 1,600 companies signed onto the program. Currently, the program has over 5,000 companies participating, which represent more

¹¹⁹ http://www.us-asean.org/ctc/malaysia_customs_03/24

¹²⁰ Organización Mundial Del Comercio; Examen de las Políticas Comerciales, Estados Unidos. Informe de la Secretaría. WT/TPR/S126.

¹²¹ http://www.customs.gov/xp/cgov/import/carriers/24hour_rule/

¹²² http://www.customs.gov/xp/cgov/import/carriers/24hour_rule/

than 40% of the volume by value of imports in to the U.S. Moreover, international corporations are becoming part of the C-TPAT as well.¹²³ The C-TPAT will continue to gain appeal and popularity among Latin America and Caribbean corporations as the sources of competitive advantage in the Latin America and Caribbean export sector grow in importance.

Whereas C-TPAT encompasses trading partners around the globe, for Mexico (as well as Canada) there was an expansion of the program, known as Free and Secure Trade (FAST). The initial phase of FAST for U.S.- and Mexico-bound commercial shipments began on September 27, 2003 at the Port of El Paso, Texas. The program offers expedited clearance to carriers and importers enrolled in the C-TPAT. It is designed to streamline and integrate registration processes for drivers, carriers, and importers, minimizing paperwork and ensuring that only low risk participants are enrolled as members. It also reduces the wait time for cargo crossing the border into the U.S. by dedicating certain traffic lanes exclusively to participating companies and by a reducing the number of examinations required for continued compliance with FAST requirements. As of September 2005, the FAST program had been implemented at 14 border crossings between Mexico and the U.S.¹²⁴

D. Framework of Standards to Secure and Facilitate Global Trade

On June 23, 2005 the World Customs Organization (WCO) adopted the Framework of Standards to Secure and Facilitate Global Trade, a system of common standards in cargo security. The framework is based on cooperation among international customs administrations and with businesses. Features of the framework include the sending of electronic information on cargo sent before it arrives at its destination, a common risk management system for all customs administrations regarding terrorism, inspections of high-risk shipments before they are sent, and partnerships with companies who commit themselves to high standards in security.¹²⁵

To ensure widespread adoption and implementation of certain parts of the framework, it is recognized that effective capacity building is vital, especially for developing countries. Therefore, countries that demonstrate a commitment to implementing the framework and the necessary political will be supported by the WCO and cooperating partners. Moreover, strategies have to be developed to improve capacity building provided to member countries.¹²⁶ In June 2005 U.S. Customs and Border Protection Commissioner Robert C. Bonner announced the creation of the Capacity Building Division within the CBP Office of International Affairs to assist developing nations in the implementation of the framework.

E. Business Anti-Smuggling Coalition

¹²³ <http://www.freetrade.org/pubs/pas/tpa-027es.html>

¹²⁴ http://www.customs.gov/linkhandler/cgov/import/commercial_enforcement/ctpat/fast/us_mexico/mexico_fast.ctt/mexico_fast.doc

¹²⁵ http://www.customs.gov/xp/CustomsToday/2005/Jul_Aug/framework.xml

¹²⁶ http://www.mof.go.jp/jouhou/kanzei/ka170712_e.pdf

The Business Anti-Smuggling Coalition (BASC) is a voluntary program of cooperation between the private sector and U.S. Customs and Border Protection. The goal of the program is to encourage and support high security standards in the import and export of goods.¹²⁷ The World BASC Organization, formed in 2002 and made up of regional and national chapters, promotes cooperation agreements and partnerships between companies, governments, customs services and international organizations by acting as a negotiator and representative of the private sector before governmental agencies, particularly customs services. Additionally, it provides technical support to organizations involved in international trade and facilitates the exchange of accurate information between members, companies, organizations and chapters. The organization is made up of more than 1650 companies from Columbia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Jamaica, Mexico, Panama, Peru, United States and Venezuela. Six more countries (Honduras, El Salvador, Uruguay, Argentina, Chile, Haiti) are in the process of joining the organization.¹²⁸

¹²⁷ http://www.cbp.gov/xp/cgov/border_security/international_activities/partnerships/basc.xml

¹²⁸ <http://www.wbasco.org/index-eng.htm>

V. Appendix

Appendix A:

Antidumping and Countervailing Duty Law

Under the Tariff Act of 1930, domestic producers that believe imports are sold at less than fair value or are subsidized by a foreign government can file an antidumping or countervailing duty petition with both the USDOC and the International Trade Commission (ITC). The domestic industry may claim that it is being materially injured, that it is in threat of such injury, or that the establishment of a domestic industry is prevented by the above actions.

Under the antidumping (AD) law, duties are imposed on U.S. imported products when the U.S. Department of Commerce (USDOC) determines whether the dumping or subsidizing exists. This is the case if merchandise is being sold at a price that is below what the producers sell it for in the country of origin (home market), or at a price that is lower than the cost of production. The difference between the price in the foreign market and the price in the U.S. market is called the dumping margin. Similarly, the countervailing-duty (CVD) law imposes duties on imports that are subsidized by a foreign exporter's home government.

The ITC determines whether there is material injury or threat of material injury to the domestic industry by reason of the dumped or subsidized imports. The ITC may also be asked if the establishment of an industry is being materially retarded by reason of the dumped or subsidized imports.

After an initial review, a preliminary determination is made either rejecting the petition and dropping the case, or agreeing that either dumping or subsidization has occurred and has or will cause harm to the domestic industry. Then a preliminary duty is established.

A final review is then issued and final duties are determined in the same manner as above if the preliminary duty is upheld. If the decision dismisses the case, all bonds posted to the U.S. Customs office during the temporary duty period are returned.

If both Commerce and the International Trade Commission make affirmative findings of dumping and injury, Commerce instructs the U.S. Customs Service to assess duties against imports of that product into the United States. The duties are assessed as a percentage of the value of the imports and are equivalent to the dumping and subsidy margins, described above. For example, if Commerce finds a dumping margin of 35%, the U.S. Customs Service will collect a 35% duty on the product at the time of importation into the United States in order to offset the amount of dumping.

Appendix B:

Antidumping and Countervailing Duty Determinations 2004/2005 – The Cases

(a) Purified Carboxymethylcellulose from Mexico (DOC: A-201-834, ITC: 731-TA-1084-1087)

On May 17, 2005 the Department of Commerce (DOC) announced its final determination of sales at less than fair value of purified carboxymethylcellulose (CMC) from Mexico. The period of investigation (POI) was April 1, 2003 through March 31, 2004. The DOC found that purified CMC from Mexico is being sold in the United States at less than fair value. The notice of antidumping (AD) duties was published with the following estimated dumping margins on July 11, 2005:

Quimica Amtex, S.A. de C. V.	12.61%
All Others	12.61%

The International Trade Commission (ITC) announced its determination on July 7, 2005, confirming the decision of the DOC. U.S. Customs and Border Protection has been directed to continue to suspend liquidation of all imports of subject merchandise from Mexico that enter the U.S. or are withdrawn from warehouses for consumption on or after December 27, 2004, the date of publication of the Preliminary Determination in the Federal Register.

(b) Certain Frozen Warmwater Shrimp from Brazil (DOC: A-351-838, ITC: 731-TA-1063-1068)

On February 1, 2005 the DOC published its amended AD duties on the sale of certain frozen warmwater shrimp originating from Brazil. The POI was October 1, 2002 through September 30, 2003. The amendment corrected the fact that in its December 23, 2004 final determination of sales at less than fair value, the DOC made ministerial errors with respect to its exclusion of “dusted” shrimp from the scope of the investigation. The following are the revised dumping margins:

EMPAF Ltda.	7.94%
CIDA Ltda./ Produmar	4.97%
Norte Pesca, S. A.	67.80%
All Others	7.05%

These antidumping duties will be assessed on all unliquidated entries of certain frozen warmwater shrimp from Brazil entering the U.S. or withdrawn from the warehouse for consumption on or after August 4, 2004, or, in the case of EMPAF, on or after August 30, 2004.

Also the ITC determined on January 27, 2005 that the effects of imports of canned warmwater shrimp from Brazil were negligible. Therefore, the ITC's affirmative determination of material injury covered only non-canned warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head off, shell-on or peeled, tail-on or tail-off, divined or not-divined cooked or raw, or otherwise processed in frozen form. Canned warmwater shrimp were excluded from the scope of the order. However, because the respondents did not export or sell canned warmwater shrimp and prawns during the period of the investigation, no recalculation of the dumping margins was warranted, and the ITC's final determination calculations were not amended.

(c) Certain Frozen Warmwater Shrimp from Ecuador (DOC: A-331-802, ITC: 731-TA-1063-1068)

On February 1, 2005 the DOC published its amended AD duties on the sale of certain frozen warmwater shrimp originating from Ecuador. The amendment of the December 23, 2004 DOC determination corrected the fact that in its notice of final determination of sales at less than fair value, the DOC made ministerial errors with respect to its exclusion of "dusted" shrimp from the scope of the investigation. The following are the revised dumping margins:

Expalsa	1.97% (de minimis)
Exporklore S. A.	2.48%
Promarisco S. A.	4.42%
All Others	3.58%

These antidumping duties will be assessed on all unliquidated entries of certain frozen warmwater shrimp from Ecuador, except for entries of Expalsa merchandise entering the U.S. or withdrawn from the warehouse for consumption on or after August 4, 2004.

Also on January 27, 2005, the ITC announced its determination that the effects of imports of canned warmwater shrimp from Ecuador were negligible. Therefore, the ITC's affirmative findings of material injury covered only non-canned warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head off, shell-on or peeled, tail-on or tail-off, divined or not-divined cooked or raw, or otherwise processed in frozen form. Canned warmwater shrimp were excluded from the scope of the order. However, because the respondents did not export or sell canned warmwater shrimp and prawns during the period of the investigation, no recalculation of the dumping margins was warranted, and the ITC's final determination calculations were not amended.

(d) Certain Orange Juice from Brazil (DOC: A-351-840, ITC: 731-TA-1089)

On April 15, 2005, the ITC announced its preliminary determination, stating that there was a “reasonable indication” that imports of certain Brazilian juices are harmful to the United States orange juice industry. The investigation involves both frozen concentrated orange juice (FCOJ) and not-from-concentrate (NFC) orange juice. On August 24, 2005, the DOC published its notice of initial investigations, finding that producers and exporters in Brazil sold orange juice in the United States at less than fair value, at the following estimated margins:

Cutrale	24.62%
Fischer	31.04%
Montecitrus	60.29%
All Others	27.16%

Upon final affirmative determinations by both the DOC and ITC, issuance of an antidumping order is scheduled for February 2006.

ITC and DOC investigations began in January and February 2005 respectively, before the April 2005 revocation of a previous FCOJ antidumping order on Brazilian orange juice after a five-year review. For this reason, the new investigations were limited in coverage only to FCOJ producers not included in the previous order and all Brazilian NFC producing companies.

(e) Light-Walled Rectangular Pipe and Tube from Mexico (DOC: A-201-832, ITC: 731-TA-1054-1055)

On October 28, 2004 the ITC published its determination that U.S. industry is not materially injured or threatened with material injury, and the establishment of an industry in the U.S. is not materially impeded, by imports of light-walled rectangular pipe and tube from Mexico. This finding contrasts with the DOC’s September 2004 determination that light-walled rectangular pipe and tube from Mexico are indeed sold in the United States at less than fair value. As a result of the Commission’s negative determination, no AD duty orders will be issued on imports of these products from Mexico (cp. subheading 7306.60.50 of the Harmonized Tariff Schedule of the U.S.).

(f) Circular Welded Carbon Quality Line Pipe from Mexico (DOC: A-201-833, ITC: 731-TA-1075)

On February 17, 2005 the DOC published notice of the termination of its AD duty investigations on certain circular welded carbon quality line pipe from Mexico. Accordingly, the ITC terminated its investigations as of the same date.

Appendix C:

Administrative Reviews 2004/2005 – The Cases

(a) Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil (A-351-826)

On March 21, 2005 the DOC published the amended final results of its administrative review on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil published on February 11, 2005. Certain ministerial errors alleged by the respondent V&M do Brasil, S.A. (VMB) had to be corrected. The period of review (POR) was August 1, 2002, through July 31, 2003. The revised weighted-average dumping margin for the POR is listed below:

VMB	7.96%
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AD duties will be required on all shipments of the product from Brazil, effective on or after the publication date of the amended final results of this administrative review.

On May 10, 2005 the DOC published that in response to a request from VMB it is conducting a new administrative review of the antidumping duty order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil for the POR of August 1, 2003 to July 31, 2004. The Department preliminarily determined that sales of subject merchandise by VMB have been made at less than normal value. Weighted-average dumping margins were estimated as follows:

VMB	18.68%
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(b) Honey from Argentina (A-357-812)

On May 27, 2004 the DOC announced the final results of the AD administrative review for the POR May 11, 2001 to November 30, 2002. The following dumping margins were issued:

Asociación de Cooperativas Argentinas	0.00%
HoneyMax S.A.	0.00%
Nexco S.A.	0.87%
Seylinco S.A.	0.60%
TransHoney S.A.	0.00%

The Department then published on October 4, 2005 a notice regarding the May 27 announcement, correcting a typographical error in its “all others” cash deposit rate. The rate should be 30.24% ad valorem.

On April 15, 2005, the DOC announced the final results of the AD administrative review for the POR December 21, 2002 to November 30, 2003. The following dumping margins were issued:

Asociación de Cooperativas Argentinas	0.00%
Compañía Apícola Argentina S.A., Mielar S.A, and El Chelibo S.A.	0.00%
HoneyMax S.A.	0.00%
Nexco S.A.	0.38%
Nutrin S.A.	55.15%
Seylinco S.A.	0.00%
TransHoney S.A.	0.00%

The DOC also announced on this date the rescission of its AD Administrative Review for 19 of 25 original companies for the POR December 1, 2003 to November 30, 2004. This review began on January 31, 2005. The partial rescission was made because several petitioners withdrew their requests for review of these companies. The final results of a review of the remaining 6 companies are expected by December 30, 2005.

(c) Honey from Argentina (C-357-813)

On December 24, 2004 the DOC announced the preliminary results of the countervailing duties (CVD) administrative review for the POR January 1, 2003 through December 31, 2003. It found the following total net countervailable subsidy rates ad valorem:

Regional Productive Revitalization Program	0.01%
BNA Financing for the Acquisition of Goods of Argentine origin	0.005%
Province of San Luis Honey Development Program	0.015%
Province of Chaco Line of Credit Earmarked for the Honey Sector	0.015%
Buenos Aires Honey Program	0.038%

These rates remained the same upon publication of the final results of the administrative review, effective June 24, 2005.

On April 18, 2005, the DOC reported a rescission of its CVD administrative review on honey from Argentina for the POR January 1, 2004 to December 31, 2004. The review, initiated January 31, 2005, was terminated after the petitioners, the American Honey Producers Association and the Sioux Honey Association, withdrew their requests. These were the only groups who requested a review.

(d) Silicomanganese from Brazil (A-351-824)

On April 13, 2005 the DOC published the final results of the administrative review of the AD duty order on silicomanganese from Brazil. The DOC determined that a margin of 0.00% exists for Rio Doce Manganes, S.A. (RDM) and Companhia Paulista de Ferro-Ligas (CPFL) for the POR. The POR is December 1, 2002 through November 30, 2003. The preliminary results were published on December 8, 2004 and the calculations were not revised for the final results.

In addition the DOC announced on September 9, 2005 the preliminary results of an administrative review of silicomanganese from Brazil for another POR (December 1, 2003 through November 30, 2004). As a result of the review the department determined that a margin of 0.00 percent exists for Rio Doce Mangans S.A., Companhia Paulista de Ferro-Ligas, and Urucum Minera S.A. (collectively RDM/CPFL). RDM/CPFL did not make sales of the subject merchandise to the U.S at prices below normal value during the POR.

(e) Stainless Steel Sheet and Strip in Coils from Mexico (A-201-822)

On January 26, 2005 the DOC announced the final results of its AD administrative review for the POR July 1, 2002 through June 30, 2003. The review covered only one manufacturer, ThyssenKrupp Mexinox, S.A. The final dumping margin was as follows:

Mexinox	5.42%
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On August 8, 2005, the DOC announced the preliminary findings of its AD Administrative Review for the POR July 1, 2003 to June 30, 2004. It reported the weighted average dumping margin as follows:

Mexinox	3.01%
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(f) Individually Quick Frozen Red Raspberries from Chile (A-337-806)

On February 8, 2005 the DOC published the final results of the administrative review of the AD order on individually quick frozen red raspberries from Chile for the POR December 31, 2001 through June 30, 2003. The DOC found that certain companies reviewed sold individually quick frozen red raspberries from Chile in the United States below normal value during the POR. The percentage margins were as follows:

Fruticola Olmue, S.A.	1.23%
Santiago Comercio Exterior Exportaciones	0.25% (de minimis)
Uren Chile, S.A.	13.41%

In response to requests from interested parties, the DOC is conducting an administrative review of the AD order for the POR July 1, 2003 through June

30, 2004. On August 4, 2005 the DOC preliminarily found the following weighted-average dumping margins:

Fruticola Olmue, S.A.	0.09% (de minimis)
Santiago Comercio Exterior Exportaciones	0.00%
Vital Berry, S.A.	0.00%

The second administrative review was initiated by the DOC for 52 countries on August 30, 2004. Based on the withdrawal of requests for review with respect to certain companies, however, the DOC rescinded, in part, the review on December 17, 2004. The companies that remained respondents in this administrative review were Fruticola Olmue S.A., Santiago Comercio Exterior Exportaciones, and Vital Berry, S. A..

(g) Gray Portland Cement and Clinker from Mexico (A-201-802)

On December 29, 2004 the DOC announced the final results its AD administrative review of Mexican gray Portland cement and clinker for the POR August 1, 2002 through July 1, 2003 and determined that the following weighted-average margin exists for the collapsed parties, CEMEX and GCCC:

CEMEX/GCCC	54.97%
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On August 31, 2005 the DOC published in the Federal Register the preliminary results of its AD administrative reviews for Mexican gray Portland cement and clinker for the POR August 1, 2003 through July 31 2004. The preliminary dumping margin was as follows:

CEMEX/GCCC	40.54%
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(h) Carbon and Certain Alloy Steel Wire Rod from Brazil (A-51-832)

On May 17, 2005 the DOC published in the Federal Register the final results of the first administrative review of the AD order on steel wire rod from Brazil, covering the POR April 15, 2002 through September 30, 2003. Based on the analysis of comments received, the final results do not differ from the preliminary results. The dumping margin was as follows:

Companhia Siderrgica Belgo Mineira, Belgo Mineira Participo Industria e Comercio S.A. and MMP Siderrgica S.A.	98.69%
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On December 16, 2004 the DOC initiated an Administrative Review of this order for the POR October 1, 2003 through September 30, 2004. However, the domestic interested parties withdrew the request. The DOC published the notice of rescission of AD duty administrative review on December 16, 2004.

(i) Carbon and Alloy Steel Wire Rod from Mexico (A-201-830)

On May 16, 2005 the DOC published the final results of its first administrative review of the AD order on carbon and certain alloy steel wire rod from Mexico. The POR is April 10, 2002 through September 30, 2003. They differ from the preliminary results announced on November 8, 2004. The review covers two producers of the subject merchandise. The Department determined that the following final weighted-average margins exist for the POR:

Hylsa Puebla, S.A. de C.V. ("Hylsa")	5.45%
Diderurgica Lazaro Cardenas	
Las Truchas S.A. de C.V. ("SICARTSA")	1.06%

On November 19, 2004 the DOC published a notice of initiation of the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Mexico, covering the POR October 1, 2003 to September 30, 2004. The DOC determined that completion of the preliminary results of this review within the 245-day period was not practical. Therefore, it extended the time period for issuing the preliminary results. They are now due no later than October 31, 2005.

(j) Carbon and Alloy Steel Wire Rod from Trinidad and Tobago (A-274-804)

On March 15, 2005 the DOC announced the final results of its first administrative review of the AD duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago. The review covered one producer of the subject merchandise. The POR was April 10, 2002 through September 30, 2003. The final results differ from the preliminary results published on November 8, 2004. The final margin is as follows:

Caribbean Ispat Limited (CIL)	3.61%
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On May 2, 2005 the DOC initiated a changed circumstances administrative review of the AD order. It was requested that the DOC conduct a changed circumstances review to determine whether Mittal Steel Point Lisas Limited (Mittal) is the successor-in-interest to CIL, and, as such, is entitled to receive the same AD duty treatment accorded CIL. On July 6, 2005 the DOC determined that Mittal is the successor-in-interest to CIL and, as a result, should be accorded the same treatment previously accorded to CIL in regard to the AD order on steel wire rod from Trinidad and Tobago.

On July 12, 2005 the DOC preliminarily determined that during the POR October 1, 2003 through September 30, 2004, CIL sold subject merchandise at less than normal value. As a result of the review the following preliminary weighted-average dumping margin was determined for the POR:

CIL	6.19%
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(k) Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil (A-351-828)

The DOC is conducting an administrative review of the AD duty order on certain hot-rolled carbon steel flat products from Brazil in response to a request by respondent Companhia Sidergica Nacional (CSN). The review covers shipments to the United States during the POR March 1, 2003, to February 29, 2004.

On April 6, 2004 the DOC found preliminarily that during the POR, CSN did not make sales of the subject merchandise at less than normal value. As a result of the review the weighted-average dumping margin for the POR was as follows:

CSN	0.00%
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The DOC intends to verify the further manufacturing costs and sales information reported by CSN, LLC for the final results, because the subject merchandise was further manufactured in the United States by CSN, LLC and sold to an unaffiliated U.S. customer as a galvanized product outside the scope of the antidumping order.

(l) Silicon Metal from Brazil (A-351-806)

On August 30, 2004 the DOC published a notice of initiation of the administrative review of the AD duty order on silicon metal from Brazil for the POR July 1, 2003 through June 30, 2004. The review was initiated for three companies. However, Ligas de Alumínio S.A. and Companhia Ferroligas de Minas Gerais – Minasligas both submitted letters to the Department stating that they made no sales or shipments of silicon metal to the United States during the POR. The review was rescinded with respect to both companies.

As a result of the review, the DOC preliminarily determined on August 8, 2005 that the following weighted-average dumping margin exists for the POR:

Camargo Correa Metais S.A.	0.00%
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(m) Certain Oil Country Tubular Goods from Mexico (A-201-817)

On May 10, 2005 the DOC preliminarily determined that Hylsa S.A. de C.V (Hylsa) made sales of the subject merchandise at less than normal value. In addition, the department preliminarily rescinded this review with respect to Tubos de Acero de Mexico, S.A. (Tamsa) because Tamsa reported, and the DOC confirmed, that it made no shipments of subject merchandise to the United States during the POR, August 1, 2003 through July 31, 2004.

As a result of the review, the DOC preliminary found the weighted average dumping margin for the POR:

Hylsa S.A. 1.36%

On August 16, 2005 the time limit for the final results of the antidumping duty administrative review was extended.

(n) Frozen Concentrated Orange Juice from Brazil (A-351-605)

On January 27, 2005 the DOC initiated a changed circumstances administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil in response to a request from Louis Dreyfus Citrus Inc., a U.S. importer of FCOJ from Brazil, COINBRA-Frutesp, a manufacturer/exporter of FCOJ from Brazil, and affiliated companies of the Louis Dreyfus group (collectively "Louis Dreyfus"). These entities requested that the DOC conduct a changed circumstances review to determine that COINBRA-Frutesp is the successor-in-interest to Coopercitrus Industrial Frutesp, S.A. (Frutesp), and, as a result, that FCOJ from Brazil manufactured and exported by COINBRA-Frutesp is not subject to the antidumping duty order on FCOJ from Brazil.

On April 13, 2005 the DOC published a notice of rescission of changed circumstances on the FCOJ antidumping duty administrative review, as Louis Dreyfus requested withdrawal of its changed circumstances review within ninety days of the review's initiation.

(o) Circular Welded Non-Alloy Steel Pipe from Mexico (A-201-805)

On December 27, 2004 the DOC announced the initiation of an AD duty administrative review on circular welded non-alloy steel pipe from Mexico. The original AD order was published November 2, 1992.

On March 1, 2005, however, the DOC announced the rescission of the administrative review, after the parties originally soliciting it withdrew their requests.

(p) Prestressed Concrete Steel Wire Strand from Mexico (A-201-831)

On February 24, 2005, in response to a request from Cablesa, S.A., the DOC announced the initiation of an administrative review on concrete steel wire strand from Mexico for the period July 17, 2003 to December 31, 2004.

This review was officially cancelled on April 28, 2005 after Cablesa, S.A. withdrew its request.

(q) Certain Carbon and Alloy Seamless Standard, Line and Pressure Pipe (large diameter) from Mexico (A-201-827)

In response to a petition from the United States Steel Corporation, the DOC, on September 22, 2004, announced the initiation of an administrative review on certain large diameter carbon and alloy seamless standard, line and pressure pipe from Mexico for the period of August 1, 2003 to July 31, 2004.

On September 13, 2005, however, the DOC announced the final rescission of the review, as Tubos de Acero de Mexico, S.A., the subject of the review, was found not to have exported or sold goods for consumption in the United States during the POR.

(r) Oil Country Tubular Goods, Other Than Drill Pipe, from Argentina (A-357-810)

In response to a request from the petitioner, the DOC initiated an administrative review of the antidumping duty order. This review covered one manufacturer/exporter of the subject merchandise during the POR. The POR is August 1, 2003 through July 31, 2004. The DOC rescinded the review based on record evidence indicating that the respondent had no entries of subject merchandise during the POR.

In addition the DOC received timely requests for administrative reviews of various antidumping and countervailing duty orders and findings in 2004/2005. The orders are listed in the table below:

Product	DOC case No.	POR
Carbon and Certain Alloy Steel Wire Rod from Brazil	C-351-833	1/1/03-12/31/03
Circular Welded Non-alloy Steel Pipe from Mexico	A-201-805	11/1/03-1-/31/04
Certain Hot-Rolled Carbon Steel Flat Products from Brazil	A-351-828	3/1/04-2/28/05
Siliconmanganese from Venezuela	A-307-820	5/1/04-4/30/05
Silicon Metal from Brazil	A-351-806	7/1/05-6/30/05
Individual Quick Frozen Red Raspberries from Chile	A-337-806	7/1/04-6/3-/05
Stainless Steel Sheet and Strip in Coils from Mexico	A-201-822	7/1/04-6/30/05
Oil Country Tubular Goods from Argentina	A-357-810	8/1/04-7/31/05
Seamless Line and Pressure Pipe from Argentina	A-357-809	8/1/04-7/31/05
Seamless Pipe from Brazil	A-351-826	8/1/04-7/31/05
Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Over 4 ½ Inches) from Mexico	A-201-827	8/1/04-7/31/05
Gray Portland Cement and Clinker from Mexico	A-201-802	8/1/04-7/31/05
Oil Country Tubular Goods from Mexico	A-201-817	8/1/04-7/31/05

Appendix D:

Sunset Reviews 2004/2005 – The Cases

- (a) Barbed Wire and Barbless Wire Strand From Argentina (DOC: A-357-405, ITC: 731-TA-208)

The DOC issued a notice of continuation of the AD duty order on barbed wire and barbless wire strand from Argentina, effective September 20, 2004.

The DOC concluded on August 5, 2005 that a revocation of the AD duty order on barbed wire and barbless wire strand from Argentina would lead to a recurrence of dumping at the following weighted average margins:

Acindar Industria Argentina de Aceros, S.A.	69.02%
All others	1.96%

The ITC confirmed the decision of the DOC and determined that revocation of the antidumping duty order on barbed wire and barbless wire strand from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonable foreseeable time.

- (b) Certain Preserved Mushrooms from Chile (DOC: A-337-804, ITC: 731-TA-776-779)

The continuation of the AD order on certain preserved mushrooms from Chile was published in the Federal Register on November 17, 2004.

On March 10, 2004 the DOC announced the final results of the expedited sunset reviews which began on August 1, 2003. The DOC determined that revocation of the AD duty orders would likely lead to a continuation or recurrence of dumping at the following weighted average margins:

Nature Farm Products, S.A.	148.51%
Ravine Foods	148.51%
All Others	148.51%

On November 1, 2004 the ITC confirmed the final results of the DOC. The Commission determined that revocation of the antidumping duty orders on certain preserved mushrooms from Chile would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. As a result of the Commission's affirmative determinations and the DOC's findings, the existing orders on imports of certain preserved mushrooms from Chile will remain in place.

(c) Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil (DOC: A-351-828 and C-351-829, ITC: 701-TA-384 and 731-TA-806-808 [Review])

On May 26, 2005 the DOC published its final decision that as a result of determinations by the DOC and the ITC, revocation of the AD and CVD orders would likely lead to continuation or recurrence of dumping, subsidies and material injury to an industry in the United States. Therefore the DOC ordered the continuation of the AD and CVD orders. The effective date of continuation of these findings was May 12, 2005.

The DOC determined on September 9, 2004 that revocation of the antidumping duty order would likely lead to continuation of recurrence of dumping at the following weighted-average margins:

CSN	41.27%
USIMINAS	43.40%
COSIPA	43.40%
All Others	42.12%

On December 7, 2004 the DOC published its final results of the expedited sunset review of the CVD order. The Department determines that revocation of the CVD order on Hot-Rolled Steel from Brazil would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below:

USIMINAS	9.67%
COSIPA	9.67%
CSN	6.35%
All Others	7.81%

The ITC confirmed the determinations of the DOC on April 14, 2005. On May 5, 2005 the commission announced in the Federal Register that the revocation of the antidumping duty and the countervailing duty orders on certain Hot-Rolled Flat-Rolled Carbon-Quality Products from Brazil would likely lead to a continuation or recurrence of material injury to an industry in the United States within a foreseeable time.

(d) Certain Stainless Steel Sheet and Strip in Coils from Mexico (DOC: A-201-822, ITC: 701-TA-381-382 and 731-TA-797-804 [Review])

As a result of the affirmative determinations of the DOC and ITC, the existing orders on imports on stainless steel sheet and strip from Mexico will remain in place. The DOC has explicitly indicated that the effective date of continuation of this order is July 25, 2005. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

On February 8, 2005 the DOC announced the final results of its first sunset review for AD duty orders on stainless steel sheet and strip coils from Mexico, finding that revocation of the antidumping duty would be likely to lead to continuation or recurrence of dumping at the following weighted average margins:

Mexinox	30.85%
All Others	30.85%

The ITC published that revoking the existing antidumping duty orders on stainless steel sheet and strip from Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time on July 18, 2005.

(e) Certain (Heavy) Iron Construction Castings from Brazil (DOC: A-351-503 and C-351-504, ITC: 731-TA-262 and 701-TA-249)

As a result of the ITC's and the DOC's affirmative findings, the existing orders on imports of these products will remain in place. The DOC ordered the continuation of the AD duty orders on certain iron construction castings from Brazil, and CVD orders on heavy iron construction castings from Brazil on June 29, 2005. The effective date of continuation of these orders was also June 29, 2005.

On May 10, 2005 the DOC determined that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the weighted-average percentage margins listed below:

Aldebara	58.74%
SOMEPA	16.61%
COSIGUA (formerly USIPA)	5.95%
All Others	26.16%

Also on May 10, 2005 the DOC published the final results of the review of the CVD duty order. The Department determined that revocation of the CVD order on iron castings from Brazil would likely lead to continuation or recurrence of countervailable subsidies at the following weighted-average percentage margin:

Country-Wide Rate	1.06%
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On May 24, 2004 the ITC made affirmative determinations concerning certain iron construction castings from Brazil. These determinations were published in the Federal Register on June 14, 2005. The Commission determined that revoking the existing countervailing and antidumping duty orders on certain iron construction castings from Brazil (both heavy and light)

would likely lead to continuation or recurrence of material injury to an industry in the United States within a foreseeable time.

(f) Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (large diameter) from Mexico (DOC: A-201-827, ITC: 731-TA-848)

Effective May 2, 2005, both the ITC and DOC are conducting sunset reviews to determine whether material injury to U.S. industry would occur after a potential elimination of this duty order.

The final results of this sunset review were published in the Federal Register on September 7, 2005. The DOC found that revocation of the antidumping duty orders on large diameter carbon and alloy seamless standard, line and pressure pipe from Mexico would be likely to lead to continuation or recurrence of dumping at the following weighted margins:

TAMSA	15.05%
All Others	15.05%

(g) Frozen Concentrated Orange Juice (FCOJ) from Brazil (DOC: A-351-605, ITC: 731-TA-326)

On September 7, 2004 the DOC published the preliminary results of its second expedited sunset review for frozen concentrated orange juice from Brazil, concluding that the removal of the duty would lead to a recurrence of below market value sales at the following weighted average margins:

Citrovita	15.98%
All others	1.96%

However, on March 15, 2005, the ITC released its determination that a revocation of the order would not lead to a recurrence of injury to an U.S. industry. As a result, the DOC revoked its AD duty order on Brazilian FCOJ, effective August 5, 2004.

Of note are new investigations (A-351-840 and 731-TA-1089) involving certain Brazilian orange juice producers, including all Not-From-Concentrate (NFC) producers and any FCOJ producers not included in the recently revoked AD order above. A final determination on these investigations is expected February 2006.

(h) Brass Sheet and Strip from Brazil (DOC: A-351-603, C-351-604, ITC: 731-TA-311, 701-TA-269)

On March 31, 2005, the ITC and on April 1, 2005, the DOC announced the initiation of sunset reviews for antidumping and countervailing duties on brass sheet and strip from Brazil.

The DOC found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. The final results of the review are the following weighted-average percentage margins:

Eluma Corporation	40.62%
All Others	40.62%

On July 27, 2005, the DOC published an extension of final results of the expedited sunset review of the CVD on brass sheet and strip from Brazil. As a result of this extension, the DOC intends to issue final results of this sunset review on or about October 28, 2005.

The ITC has not yet confirmed that the duty orders on brass sheet and strip from Brazil will remain in place.

(i) Carbon Steel Butt-Weld Pipe Fittings from Brazil (DOC: A-351-602, ITC: 731-TA-308)

On December 1, 2004 the DOC and ITC announced the initiation of the second round of Sunset Reviews for antidumping duties on carbon steel butt-weld pipe fittings from Brazil to determine if revocation of the AD order would lead to a continuation of material injury to U.S. industry.

The ITC announced that effective May 4, 2005 it would be conducting full reviews of the case and its determination has not yet been made. The DOC, however, conducted expedited reviews and announced July 8, 2005 that revocation of the AD order would indeed lead to a recurrence of below market value sales at a weighted average margin of 52.25%.

In July 2005 the DOC published that the following sunset reviews of antidumping duty orders were also initiated:

Product	DOC case No.	ITC case No.
Circular Welded Non-Alloy Steel Pipe from Mexico	A-201-805	731-TA-534
Circular Welded Non-Alloy Steel Pipe from Brazil	A-351-809	731-TA-532
Stainless Steel Wire Rod from Brazil	A-351-819	731-TA-636

Appendix E:

New Shipper Reviews 2004/2005 – The Cases

(a) Certain Hot-Rolled, Flat-Rolled Carbon Quality Steel Flat Products (A-351-828)

On September 27, 2004 the DOC received a request from Companhia Siderrigica de Tubaro (CST) to conduct a new shipper review of the AD duty order on hot-rolled, flat-rolled carbon quality steel products from Brazil. The DOC initiated this review on October 28, 2004. The POR for this review is March 1, 2004 to August 31, 2004.

On August 19, 2005, the DOC released its preliminary results of the new shipper review, finding that during the POR, CST did not sell at less than normal value. The weighted-average dumping margin was as follows:

Comphania Siderrgica de Tubaro	0.00%
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(b) Honey from Argentina (A-357-812)

On February 4, 2005 the DOC announced the initiation of a new shipper AD Review for El Mana S.A.. The review covers honey sales for the company during the POR of December 1, 2003 to December 31, 2004. On June 23, 2005 the DOC reported an extension of the time limit for the preliminary results of the review. The results will be announced no later than November 28, 2005.