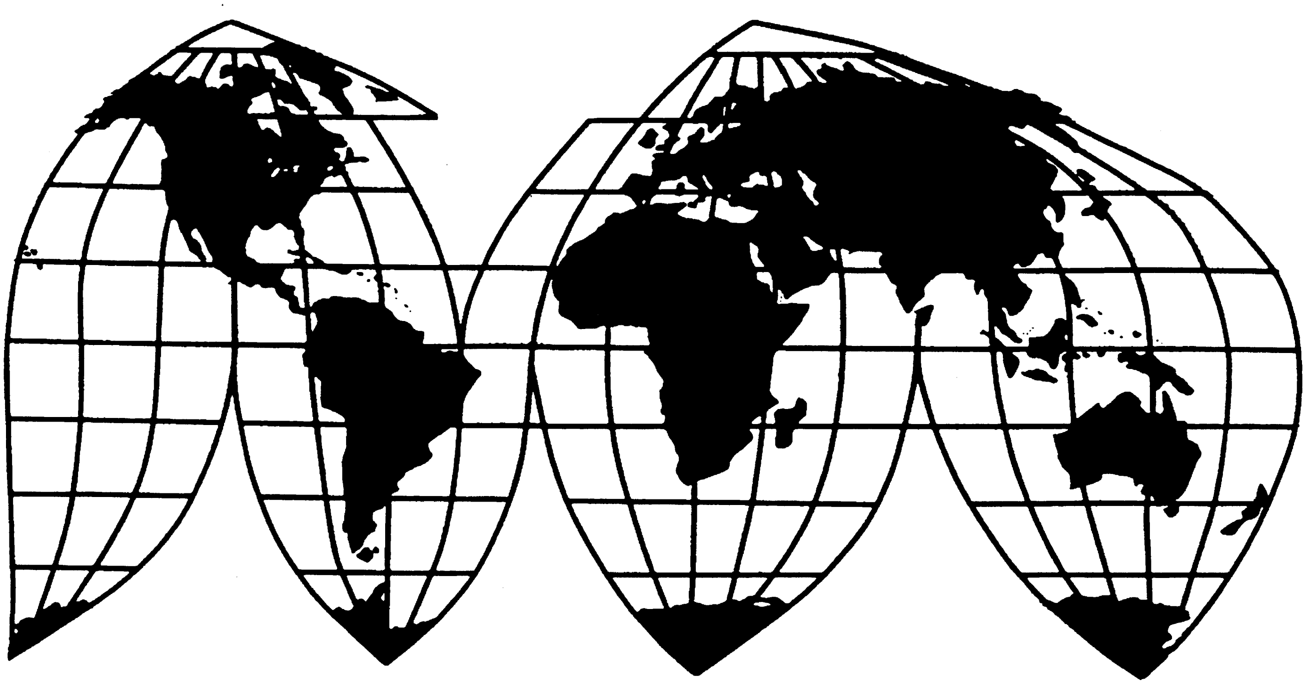
Sugar From the European Union; Sugar From Belgium, France, and Germany; and Sugar and Syrups From Canada

Investigations Nos. 104-TAA-7 (Review);

AA1921-198-200 (Review); and 731-TA-3 (Review)

Publication 3238 **September 1999**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

Staff Assigned:

John Fry, *Investigator*

Lowell Grant, *Industry Analyst*

William Deese, *Economist*

David Boyland, *Accountant*

Shara Aranoff, *Attorney*

Bonnie Noreen, *Supervisory Investigator*

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436

Sugar From the European Union; Sugar From Belgium, France, and Germany; and Sugar and Syrups From Canada

Publication 3238

September 1999

CONTENTS

Page

CONTENTS

CONTENTS

iii

CONTENTS

Page

Tables

iv

CONTENTS

Page

Tables–*Continued*

v

CONTENTS

Page

Tables–*Continued*

Note--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 104-TAA-7 (Review); AA1921-198-200 (Review); and 731-TA-3 (Review)

SUGAR FROM THE EUROPEAN UNION; SUGAR FROM BELGIUM, FRANCE, AND GERMANY; AND SUGAR AND SYRUPS FROM CANADA

DETERMINATIONS

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the countervailing duty order on sugar from the European Union would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission also determines[3] that revocation of the antidumping findings on sugar from Belgium, France, and Germany would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Further, the Commission determines that revocation of the antidumping duty order on sugar and syrups from Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on October 1, 1998 (63 F.R. 52759), and determined on January 7, 1999, that it would conduct full reviews (64 F.R. 4901, February 1, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on March 11, 1999 (64 F.R. 12178). The hearing was held in Washington, DC, on July 15, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Crawford and Askey dissenting.

[3] Commissioners Crawford and Askey dissenting.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that revocation of the antidumping findings covering sugar from Belgium, France, and Germany, and/or the countervailing duty order covering sugar from the European Union, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] We further determine that revocation of the antidumping duty order covering sugar and syrups from Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In May of 1979, the Commission determined that a regional industry, consisting of domestic producers of sugar cane and raw cane sugar located in the "Southeastern United States region" (*i.e.,* Florida and Savannah, Georgia), was being injured by reason of less than fair value ("LTFV") imports of sugar from Belgium, France, and West Germany (Germany).[3] On February 12, 1979, the Department of Treasury ("Treasury") imposed antidumping findings on sugar from Belgium, France, and Germany.[4]

In March of 1980, the Commission determined that a regional industry, consisting of domestic producers of refined sugar located in the "Northeastern States region,"[5] was materially injured by reason of LTFV imports of sugar and syrups from Canada.[6] The Department of Commerce ("Commerce") imposed an antidumping duty order on imports of sugar and syrups from Canada on April 9, 1980.[7] Commerce revoked the antidumping duty order in Sugar and Sirups from Canada with respect to imports from Redpath Sugars, Ltd., entered on or after July 20, 1984, and with respect to imports from Lantic

---

[1] Pursuant to 19 U.S.C. § 1675(c)(5)(C)(v), we have determined to extend the time limit for completion of these reviews by one day.

[2] Commissioners Crawford and Askey dissenting. *See* their Dissenting Views.

[3] Sugar from Belgium, France, and West Germany, Inv. Nos. AA1921-198-200, USITC Pub. 972 (May 1979) ("BFG Original Determination").

[4] 44 Fed. Reg. 8949 (Feb. 12, 1979). Treasury was responsible for calculating antidumping and countervailing duty margins and imposing findings and orders until January 1, 1980, when that role was transferred to the Department of Commerce.

[5] The Commission defined the region to include the states of Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont.

[6] Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 (Mar. 1980) ("Canada Original Determination").

[7] 45 Fed. Reg. 24126 (Apr. 9, 1980). The Commission's 1980 determination was appealed to the Court of International Trade. After three remands, the CIT reversed the Commission's affirmative determination on the grounds that it was not supported by substantial evidence and vacated the antidumping duty order. The Commission then appealed to the Federal Circuit, which overruled the CIT and reinstated the antidumping duty order in September of 1984. *See* Atlantic Sugar, Ltd. v. United States, 744 F.2d 1556 (Fed. Cir. 1984).

Sugar, Ltd., entered on or after February 10, 1987. The only company currently subject to the Canadian antidumping duty order is Rogers Sugar, Ltd. ("Rogers"), successor in interest to British Columbia Sugar Refining Company Ltd.[8]

On July 31, 1978, Treasury imposed a countervailing duty order on imports of sugar from the European Community.[9] On March 28, 1980, the Commission received a request from the Delegation of the European Community (now the European Union) for an investigation under section 104(b) of the Trade Agreements Act of 1979 of whether revocation of the countervailing duty order on sugar from the European Community would cause material injury or threat of material injury to a domestic industry. On May 6, 1982, the Commission determined that an industry in the United States would be threatened with material injury if the countervailing duty order on sugar from the European Community were revoked.[10] Accordingly, the order remained in effect.

On October 1, 1998, the Commission instituted five-year reviews pursuant to section 751(c) of the Act, to determine whether revocation of the antidumping findings covering sugar from Belgium, France, Germany, the countervailing duty order covering sugar from the European Union, and the antidumping duty order covering sugar and syrups from Canada would be likely to lead to continuation or recurrence of material injury.[11]

In five-year reviews, the Commission initially determines whether to conduct a full review (which would generally include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.[12] If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant a full review, it will determine to conduct a full review.

In these reviews, the Commission received responses to the notice of institution from the United States Beet Sugar Association ("USBSA"), the United States Cane Sugar Refiners' Association

---

[8] Due to consolidations in the Canadian sugar industry since the original investigation, there are now only three refined sugar producers in Canada: Redpath, Lantic (formerly Atlantic Sugar), and Rogers. Rogers operates the sole Canadian beet sugar processing facility. Rogers also refines imported raw cane sugar, as do Redpath and Lantic. Confidential Report (Aug. 19, 1999) ("CR") at IV-6 and IV-8, Public Report ("PR") at IV-4 and IV-6. As discussed below, since 1987 sugar refined in Canada from imported raw cane sugar is not considered a product of Canada for U.S. Customs purposes. Therefore, all subject imports of refined sugar entering the United States from Canada since 1987 are processed from sugar beets grown in Canada. CR at IV-6, PR at IV-4 and IV-6.

[9] 43 Fed. Reg. 33237 (July 31, 1978). The countervailing duty order was imposed without a Commission injury determination pursuant to former section 303 of the Tariff Act of 1930. 19 U.S.C. § 1303 (1978).

[10] Sugar from the European Community, Inv. No. 104-TAA-7, USITC Pub. 1247 (May 1982) ("EU Original Determination").

[11] 63 Fed. Reg. 52759 (Oct. 1, 1998).

[12] *See* 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

("USCSRA"), and their individual members, as well as from Rogers, the sole Canadian producer still subject to the Canadian antidumping duty order. The Commission received no responses to the notice of institution on behalf of producers in Belgium, France, Germany, or the European Union.

On January 7, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews. With regard to Sugar and Syrups from Canada, the Commission determined that both domestic and respondent interested party individual and group responses were adequate. With regard to Sugar from the European Union, the Commission determined that the domestic interested party group response was adequate,[13] but that, because no respondent interested party responded to the notice of institution, the respondent interested party group response was inadequate. The Commission determined to conduct a full review, however, because conducting a full review would promote administrative efficiency in light of the Commission's decision to conduct a full review with respect to Sugar and Syrups from Canada, and because of the significant domestic like product and domestic industry issues presented by this review.[14] Finally, with regard to Sugar from Belgium, France, and Germany, the Commission determined that both the domestic interested party group response[15] and the respondent interested party group response were inadequate because it received no responses to the notice of institution from any domestic producer of the like product in those investigations (sugar cane and raw cane sugar) and no responses from any respondent interested parties. The Commission nevertheless determined to conduct full reviews for the same reasons cited with respect to Sugar from the European Union.[16]

On July 15, 1999, the Commission held a hearing in these reviews, at which representatives of the USBSA, USCSRA, and Rogers appeared. The domestic producers filed briefs in support of continuation of all five findings and orders, and Rogers filed briefs urging revocation of the antidumping duty order covering sugar and syrups from Canada.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[17] The Act defines "domestic like product" as "a product which is like, or in

[13] Commissioner Askey dissenting. Commissioner Crawford concurred in the finding of group adequacy, but, in light of the lack of response from any growers or processors of the like product, found that individual responses from such producers were not adequate.

[14] Commissioner Crawford dissenting. Commissioner Askey concurring in the result.

[15] Chairman Bragg dissenting.

[16] Commissioners Crawford and Askey dissenting. *See* Vote Sheets in Sugar from the European Union, Inv. No. 104-TAA-7 (Review), Sugar from Belgium, Inv. No. AA1921-198 (Review), Sugar from France, Inv. No. AA1921-199 (Review), Sugar from Germany, Inv. No. AA1921-200 (Review), and Sugar and Syrups from Canada, Inv. No. 731-TA-3 (Review) (Jan. 7, 1999); Notice of Commission Determination to Conduct Full Five-Year Reviews, 64 Fed. Reg. 4901 (Feb. 1, 1999); Explanation of Commission Determinations on Adequacy (undated, February 1999).

[17] 19 U.S.C. § 1677(4)(A).

the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[18]

In its final five-year review determinations, Commerce defined the subject merchandise as follows:

For the antidumping findings covering sugar from Belgium, France, and Germany: sugar, both raw and refined, with the exception of specialty sugars.[19]

For the countervailing duty order on sugar from the European Union: sugar, with the exception of specialty sugars (e.g., cones, hats, pearls, loaves).[20]

For the antidumping duty order on sugars and syrups from Canada: sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar.[21]

Sugar is chemically classified as sucrose. Although sucrose is a carbohydrate that naturally occurs in fruits and vegetables, it is only found in quantities large enough for commercial extraction in sugar cane and sugar beets.[22] Raw sugar, which is produced from sugar cane, consists of large sucrose crystals coated with molasses and is normally 90-99 percent pure sucrose.[23] Refined sugar may be made from raw (cane) sugar or directly from sugar beets and is generally over 99.9 percent pure sucrose. Most refined sugar is sold in crystalized or powdered form. Liquid sugar and invert syrup are also forms of refined sugar. Liquid sugar is sucrose dissolved in water and is used for the coating of breakfast cereals. Invert syrup is a chemically modified form of liquid sugar that does not crystallize and is used in the production of jams, jellies, and some bakery products.[24]

Refined beet sugar is generally produced directly from sugar beets in a single process by a sugar beet processor.[25] By contrast, refined cane sugar is generally produced from sugar cane in two distinct stages involving different facilities. Sugar cane millers extract raw sugar from sugar cane at sugar cane

---

[18] 19 U.S.C. § 1677(10). *See* Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991). *See also* S. Rep. No. 96-249, at 90-91 (1979).

[19] Final Results of Expedited Sunset Review: Sugar from Belgium, France, and Germany, 64 Fed. Reg. 5638 (Feb. 4, 1999). The antidumping finding covering sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) are composed of 85 percent sucrose and 15 percent lactose; (2) have a polished matte appearance, and are more uniformly porous than domestic sugar cubes; and (3) are produced in two sizes of 2 mm and 3.8 mm in diameter.

[20] Final Results of Full Sunset Review: Sugar from the European Community, 64 Fed. Reg. 49464 (Sept. 13, 1999). Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order.

[21] Final Results of Full Sunset Review: Sugar and Syrups from Canada, 64 Fed. Reg. 48362 (Sept. 3, 1999). The scope of the order excludes icing sugar decorations as determined in a U.S. Customs Classification of Jan. 31, 1983.

[22] CR at I-20-I-21, PR at I-17.

[23] CR at I-21, PR at I-17.

[24] CR at I-21-I-22, PR at I-17-I-18.

[25] CR at I-23, PR at I-19.

mills. The production process for refined cane sugar is then completed at a cane sugar refinery.[26] In order to avoid high transportation costs and deterioration of the sugar beets and sugar cane, cane millers and beet processors are located close to growers.[27] Raw sugar is shipped nationally and internationally in bulk, often over long distances. Thus, cane refiners need not be located close to growers and millers. Refined sugar is more difficult and expensive to transport and store, because higher sanitary standards must be maintained.[28]

Because the Antidumping Act, 1921, did not contain a "like product" provision, the Commission did not make a like product determination *per se* in its original determinations concerning sugar from Belgium, France, and Germany. It did define the "domestic industry," however, as "the facilities for the production of sugar cane and raw cane sugar in the Southeastern region of the United States."[29]

Although the Commission's original investigation of sugar and syrups from Canada was conducted pursuant to the Tariff Act of 1930, which contains a like product provision, the Commission similarly did not make an explicit like product determination. As to the domestic industry, it stated that "we consider the relevant domestic industry to consist of the facilities producing refined sugar located in the Northeastern United States region."[30]

The Commission's investigation of sugar from the European Union was conducted under section 104(b) of the Trade Agreements Act of 1979, which required the Commission to determine whether an industry would be materially injured, or threatened with material injury, or the establishment of such industry would be materially retarded, if the existing countervailing duty order (imposed without an injury test) were revoked. In that case, the Commission expressly found that the like product "consists of both beet and cane sugar" whether raw or refined.[31]

For purposes of these five-year reviews, the domestic producers argue that the Commission should find a single like product consisting of all sugar, whether beet or cane, and whether raw or refined.[32] Rogers argues that the Commission should define the domestic like product in the review of the Canadian antidumping duty order as refined beet and cane sugar only.[33]

In light of the Commission's focus on defining an industry based on geographic factors rather than the identity of the products produced by the relevant domestic producers, we place little weight on any guidance on the appropriate like product contained in the Commission's original determinations concerning Belgium, France, Germany, and Canada. By contrast, in the most recent of the Commission's original determinations, Sugar from the European Community, the Commission expressly defined the like product as raw and refined sugar, whether cane or beet. We find that defining the like product in this manner is also appropriate in these reviews.

---

[26] CR at I-22-I-23, PR at I-18.

[27] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 8; Hearing Tr. at 90.

[28] Rogers Posthearing Brief at 15.

[29] BFG Original Determination at 3.

[30] Canada Original Determination at 3.

[31] EU Original Determination at 4.

[32] Posthearing Brief of USBSA and USCSRA (revised version, July 28, 1999), Responses to Commissioner and Staff Questions, Exhibit 11 at 5-12.

[33] Posthearing Brief of Rogers Sugar at 12-16.

7

The semifinished product analysis supports treating raw and refined sugar as a single domestic like product.[34] Because the U.S. Food and Drug Administration considers raw sugar unsuitable for human consumption either as a food or as an intermediate food ingredient due to its high level of impurities, raw sugar is dedicated to the production of refined sugar.[35] There is no evidence that producers or consumers perceive separate markets for raw sugar that are unrelated to its consumption in the form of refined sugar. Raw and refined sugar consist almost entirely of sucrose and ultimately are used as a caloric food sweetener. Differences in physical characteristics are dictated by their relative degrees of processing.[36] Moreover, while the process of refining raw sugar is capital intensive and technologically complex,[37] the value added by refining appears to be modest relative to that added by milling.[38]

Accordingly, consistent with the Commission's like product determination in the most recent original investigation and the factual record in these reviews, we find the same domestic like product in all five reviews consisting of raw and refined sugar, whether cane or beet.

---

[34] When analyzing whether a product at an earlier stage of its production process is "like" a finished or further processed product, the Commission generally employs a semifinished product analysis, rather than the traditional six factor analysis. The five factors considered are:

(1) whether the upstream article is dedicated to the production of the downstream article, or has independent uses;
(2) whether there are perceived to be separate markets for the upstream and downstream articles;
(3) differences in the physical characteristics and functions of the upstream and downstream articles;
(4) differences in the costs or value of the vertically differentiated articles; and
(5) significance and extent of processes used to transform the upstream product into the downstream article.

See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 6 (Feb. 1999).

[35] CR at I-21, PR at I-17.

[36] CR at I-21, PR at I-17; USBSA and USCSRA Posthearing Brief, Exhibit 11 at 10-11; Rogers Posthearing Brief at 13-15.

[37] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 11; Rogers Posthearing Brief at 16.

[38] One representative of a domestic cane refiner testified that he pays about 23.5 cents per pound for raw sugar to produce refined sugar that sells for about 26 cents per pound, a 2.5 cent markup for the refiner. Hearing Tr. at 101-102 (Mr. Martinelly of Domino Sugar); *see also* Hearing Tr. at 87 (Mr. Roney) (referring to a raw cane price of 22 cents and a refined beet price of 26 cents). Moreover, the record indicates that in 1997 and 1998, raw sugar represented 72.7 and 78.2 percent of the reported value of refined sugar. CR at III-B-9 n.26, PR at III-B-10 n.26.

B. Domestic Industry

1. In General

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[39] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.[40]

Two preliminary issues arise with respect to the appropriate definition of the domestic industry. First, since four of the five original determinations subject to review were made on the basis of regional industry analyses, we must consider whether the domestic industry producing raw and refined sugar is one national industry or several regional industries. Second, because raw and refined sugar are processed agricultural products, we consider whether to include producers of the raw agricultural products (sugar cane and sugar beets) in the domestic industry producing raw and refined sugar. For the reasons discussed below, we find one national industry in all reviews and define that industry to include sugar cane and sugar beet growers as well as cane millers, cane refiners, and beet processors.

2. Whether to Define One or More Regional Industries

Section 752(a)(8) of the Act permits, but does not require, use of a regional industry analysis in a five-year review when the Commission's original determination was premised on a regional industry.[41]

---

[39] 19 U.S.C. § 1677(4)(A).

[40] *See, e.g.,* United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

[41] The statute provides:

> In a review under section 1675(b) or (c) of this title involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this subtitle, another region that satisfies the criteria established in section 1677(4)(C) of this title, or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review, the Commission shall consider whether the criteria established in section 1677(4)(C) of this title are likely to be satisfied if the order is revoked or the suspended investigation terminated.

19 U.S.C. § 1675a(a)(8). The Statement of Administrative Action ("SAA") to the Uruguay Round Agreements Act ("URAA") states that this provision "provides that the Commission is not bound by any determination it may have made in the original determination regarding the existence of a regional industry." SAA, H. Doc. No. 103-316, vol. 1 at 887 (1994). Section 1677(4)(C), 19 U.S.C. § 1677(4)(C), provides that the Commission may find a regional industry only when:

> (i) The producers within such market sell all or almost all of their production of the domestic like product in question in that market, and

(continued...)

9

Moreover, the proper inquiry for the Commission is not whether the regional industry criteria of section 771(4)(C) are presently satisfied, but whether those criteria are likely to be satisfied if the order subject to review is revoked or the suspension agreement terminated.[42]

In its original determinations concerning Belgium, France, and Germany, the Commission found a "Southeastern" regional industry consisting of cane growers and millers located in Florida.[43] It based its regional industry definition on two findings: that the Southeastern region received about 78 percent of the sugar imports from Belgium, France, and Germany; and that, prior to the LTFV sales of raw sugar in the "Southeastern region," Florida sugar producers (*i.e.,* growers and millers) supplied nearly all the raw sugar used by the two refiners in this region, with sales to those two refiners historically accounting for about 85 percent of the distribution of the raw sugar produced by Florida producers.[44]

In the original investigation concerning Canada, the Commission defined a "Northeastern states" regional industry consisting of cane sugar refiners located in the states of Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont.[45] In support of this conclusion, the Commission noted that 96 percent of the sales made by refineries located in the Northeastern states were to customers in that region during the period 1975-1979; only 5.5 percent of sales of refiners located outside the region were to customers in the region; less than one percent of imports from Canada entered the United States at Customs ports in states outside the region; and only about 3.3 percent of imports from Canada entering the United States through Customs ports located within the region were eventually sold in states outside the region.[46]

The parties agree that the Commission should now find a single national sugar industry. The domestic producers argue that, as a result of consolidations in the sugar industry, the industry no longer has distinct geographical markets where producers within such markets sell all or almost all of their production to consumers in those markets.[47] Rogers argues that the circumstances that led the Commission to find a regional industry consisting of the Northeastern states in the original investigation concerning Canada no longer exist. In particular, Rogers notes that, at the time of the original investigation, the subject imports from Canada consisted of refined cane sugar made from raw cane sugar that had been imported into Canada, refined in Eastern Canada, and then shipped into the Northeastern United States. Today, by contrast, the only sugar subject to the order being imported from Canada is

---

[41] (...continued)

(ii) The demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

[42] SAA at 888.

[43] The region was defined to include Savannah, Georgia, as well, but only in so far as one of the refiners that purchased the Florida producers' raw cane sugar was located there. There was no investigation of any possible cane growing or milling operations in Georgia. BFG Original Determination at 3.

[44] BFG Original Determination at 3-4.

[45] Canada Original Determination at 3-4.

[46] *Id.* at 4. In the original investigation concerning the European Union, no party proposed, and the Commission did not consider, any regional industry. EU Original Determination at 3-4.

[47] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 50-53.

refined beet sugar from Rogers' Taber, Alberta, facility, and that sugar is being imported into the Midwestern and North Central United States.[48]

With respect to refined sugar, the record reflects that some domestic processors now ship to locations over 1,000 miles from their plants, while others continue to serve closer markets.[49] Consolidation in the domestic industry has also affected shipping patterns. For example, United Sugars, founded in 1994, is a marketing cooperative made up of three cooperative beet sugar processors in the North Central states and one cane sugar refinery in Florida. United Sugars accounts for about *** percent of domestic refined sugar sales and ships to more than 2,000 destinations nationwide.[50] Similarly, Tate & Lyle, the largest domestic refiner, accounts for about *** percent of domestic production and ships nationwide from beet and cane sugar production facilities in Nebraska, Montana, Colorado, Wyoming, Maryland, New York, and Louisiana.[51] Consolidation among purchasers also has affected shipping patterns since the original investigations, with producers reporting that large purchasers have national account purchasing strategies.[52] In addition, the domestic producers submitted a chart of sugar trade flows in the United States showing that, in 1998, sugar flowed from surplus regions (West and South) to regions with larger demand (Chicago, Mid-Atlantic, and New England).[53] Finally, the record indicates that sugar prices are determined on a national basis, such that changed market conditions in any region may affect prices nationwide, and that refined sugar is traded on commodity markets.[54]

With respect to raw sugar, the record indicates that domestically-grown sugar cane is milled only in Florida, Hawaii, Louisiana, Texas, and Puerto Rico. By contrast, domestic cane sugar refineries are located in Florida, Louisiana, Texas, Georgia, California, New York, Puerto Rico, and Maryland. Moreover, Refined Sugars, a New York refiner, is a subsidiary of the Sugar Cane Growers Cooperative of Florida.[55] Thus, it appears that raw sugar shipments are also less regional today than they were at the time of the original determinations. In particular, the recent purchase of a New York refining facility by Florida cane grower/millers suggests that the "shipments out" criterion is unlikely to be satisfied with respect to the Southeastern (Florida/Georgia) region identified in the original investigations concerning Belgium, France, and Germany if the findings are revoked.

Based on the factors discussed, we find that the market for raw and refined sugar is now a national one. Moreover, the evidence suggests that these changes in marketing patterns since the original investigations have more to do with consolidations among producers and purchasers of raw and refined sugar than with the effects of the antidumping and countervailing duty orders. Thus, we find that the criteria specified in section 771(4)(C) of the statute would not likely be satisfied even if the findings and orders are revoked.

---

[48] Rogers Posthearing Brief at 24-25; CR at IV-4, PR at IV-3.

[49] CR at II-2, PR at II-1-II-2.

[50] Tables I-12 and I-15, CR at I-39 and I-43, PR at I-30 and I-34; CR at I-40, PR at I-31; CR at II-2-II-3, PR at II-1-II-2; Hearing Tr. at 23-24.

[51] Hearing Tr. at 29; Tables I-12 and I-15, CR at I-39 and I-43, PR at I-30 and I-34.

[52] Hearing Tr. at 24.

[53] Hearing Tr. at 25; USBSA and USCSRA Posthearing Brief, Exhibit 11, Attachment C.

[54] Hearing Tr. at 30-31, 165; Rogers Posthearing Brief, Exhibit 2; USBSA and USCSRA Posthearing Brief at 9 and Exhibit 11 at 52.

[55] Tables I-15 and I-17, CR at I-43, I-45-I-46, PR at I-34 and I-36-I-37.

3. Whether the Domestic Industry Producing Raw and Refined Sugar Includes Sugar Cane and Sugar Beet Growers

In cases involving processed agricultural products, section 771(4)(E) of the Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the processed agricultural product if:

(a) the processed agricultural product [here, raw[56] and refined sugar] is produced from the raw product [sugar beets and sugar cane][57] through a single continuous line of production,[58] and

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon relevant economic factors.[59]

The domestic producers argue that the grower/processor provision is satisfied in this case, and the Commission should include sugar cane and sugar beet growers in the domestic industry producing

---

[56] As noted above, "raw" sugar is sugar cane that has been partially processed. CR at I-21, PR at I-17.

[57] "Raw agricultural product" is defined as any farm or fishery product. 19 U.S.C. §1677(4)(E)(iv).

[58] The statute provides that the processed product shall be considered to be processed from the raw product in a single continuous line of production if:

(a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(b) the processed agricultural product is produced substantially or completely from the raw product.

19 U.S.C. § 1677(4)(E)(ii).

[59] In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

(a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

19 U.S.C. § 1677(4)(E)(iii).

raw and refined sugar.[60] Rogers argues that the provision is not satisfied for either cane or beet growers.[61] For the reasons discussed below, we find that the domestic industry producing raw and refined sugar includes sugar beet and sugar cane growers.

Because sugar cane and sugar beets have no other commercially significant use, they are substantially devoted to the production of raw and refined sugar. Similarly, raw and refined sugar are made completely from sugar beets or sugar cane.[62] We therefore find a continuous line of production.

The record indicates that, with respect to about *** of domestic refined sugar production, and a far higher percentage of domestic raw cane sugar production, growers and processors are under common ownership.[63] In cooperative arrangements, grower-owners contribute their harvest for processing and share in the net proceeds generated by the processors' sales of raw or refined sugar in proportion to the number of shares they own in the cooperative operation.[64] Non-cooperative cane millers and refiners and beet processors purchase sugar cane or sugar beets from growers or raw sugar from millers. However, the amount of sugar cane or sugar beets to be supplied to a processor by a particular grower is determined in advance by contracts in which growers and processors share the risk of over- or underproduction, and neither group can operate without such an understanding.[65]

Accordingly, we find that there is a substantial coincidence of economic interest between sugar cane and sugar beet growers, on the one hand, and cane millers, cane refiners, and beet processors, on the other. We therefore further find that the grower/processor provision is satisfied in these reviews and

---

[60] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 35-37.

[61] Rogers Posthearing Brief at 17-18.

[62] CR at I-20-I-23, PR at I-17. We note that two byproducts are created during the sugar production process: molasses and pulp. These circumstances are distinguishable from the situation in which a substantial portion of the raw agricultural product is either not processed at all or is processed into products other than the one subject to investigation. *See, e.g.,* Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Preliminary), USITC Pub. 3216 at 9-10 (July 1999). In these reviews, virtually all domestic production of sugar cane and sugar beets is subjected to the processes that result in the production of refined sugar. Although byproducts are created through that process, the record suggests that the domestic growers would not grow sugar cane and sugar beets solely for the purpose of having them processed into molasses and pulp. CR at I-22-I-23, I-27, PR at I-18-I-19, I-21.

[63] Three of the seven domestic beet sugar processors and two domestic cane refiners, collectively accounting for *** percent of domestic refined sugar production in 1998, are owned by grower cooperatives. Table I-12, CR at I-39-I-40 and n.53, PR at I-30-I-31 and n.53; Table I-15, CR at I-43, PR at I-34. U.S. Sugar Corp., a refinery built by a grower/miller operation in Florida, opened in October 1998 and is not reflected in our 1998 data. CR at I-43, PR at I-31.

[64] CR at III-B-6, PR at III-B-5.

[65] For example, Western Sugar's 1985 closure of its beet processing facility at Goodland, Kansas, marked the end of sugar beet farming in Kansas. CR at I-40, PR at I-31. Imperial did not reopen its beet processing facility in Freemont, Ohio, in 1997, after receiving commitments by growers to grow beets on fewer than half the acres needed to supply the plant. CR at I-40 n.52 and III-B-6-III-B-7, PR at I-31 n.52 and III-B-5-III-B-7. Similarly, cane refiner Domino Sugar attributes the anticipated *** closure of its Brooklyn refinery, which will reduce the company's total capacity by 25 percent, to "***." CR at I-44, PR at I-33; Hearing Tr. at 31-32, 101.

13

include sugar cane and sugar beet growers, together with cane millers, cane refiners, and beet processors, in the industry producing raw and refined sugar.

C. Related Parties

In defining the domestic industry in these reviews, we consider whether any producers of the domestic like product should be excluded from the domestic industry pursuant to the related parties provision in section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[66]

In the instant review concerning sugar from the European Union, domestic producers Western Sugar and Domino are related parties because they are owned by Tate & Lyle (US), which is owned in turn by Tate & Lyle PLC, a producer of refined sugar based in the United Kingdom. The domestic producers concede that Domino and Western meet the statutory definition of related parties, but they argue that appropriate circumstances do not exist to exclude them from the industry.[67] Rogers does not address this issue.[68]

Domino and Western collectively accounted for *** percent of domestic refined sugar production in 1998.[69] While *** reported ***, neither company reported any imports of subject merchandise.[70] Indeed, because Domino and Western operate under the same import restrictions as all other U.S. refiners (discussed in detail *infra*), their U.S. refining operations could not be devoted principally to refining imported raw sugar even if that were their preference. Therefore, we find that their primary interest lies in domestic production and appropriate circumstances do not exist to exclude Domino and Western from the domestic industry.

In addition, prior to its December 1998 acquisition by a group of domestic cane millers, domestic producer Refined Sugars was owned by Canadian producer Lantic Sugar, which is under common management with Rogers, and was therefore arguably a related party in the review concerning sugars and syrups from Canada at that time.[71] In 1998, Refined Sugars accounted for *** percent of domestic refined sugar production.[72] Refined Sugars reported *** during the period of investigation, but no

---

[66] *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[67] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 22-25.

[68] Rogers argues that domestic sugar cane refiners who import tier II raw sugar should be excluded from the industry. Rogers Posthearing Brief at 18-19. Since current tier II imports are from Mexico, a nonsubject country, there is no statutory basis for excluding such domestic producers from the industry. CR at II-8-II-9, PR at II-6.

[69] Tables I-12 and I-15, CR at I-39 and I-43, PR at I-30 and I-34.

[70] CR at I-52, PR at I-41.

[71] CR at III-A-1, PR at III-A-1.

[72] Table I-15, CR at I-43, PR at I-34.

imports or purchases of subject merchandise.[73] Accordingly, we find that Refined Sugars' primary interest lies in domestic production and that appropriate circumstances do not exist to exclude Refined Sugars from the domestic industry.

III. CUMULATION

A. Framework

Section 752(a) of the Act provides that:

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market.[74]

Thus, cumulation is discretionary in five-year reviews, and the Commission may exercise its discretion to cumulate, if the statutory criteria are met.

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

(1) the degree of fungibility[75] between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

(4) whether the imports are simultaneously present in the market.[76]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete

---

[73] CR at I-52, PR at I-41.

[74] 19 U.S.C. § 1675a(a)(7).

[75] Commissioner Crawford notes that the Court of International Trade has recognized repeatedly that analyses of substitutability may vary under different provisions of the statute, based upon the requirements of the relevant statutory provision. *E.g.* U.S. Steel Group v. United States, 873 F. Supp. 673, 697 (Ct. Int'l Trade 1994); R-M Industries, Inc. v. United States, 848 F. Supp. 204, 210 n.9 (Ct. Int'l Trade 1994); BIC Corp. v. United States, 964 F. Supp. 391 (Ct. Int'l Trade 1997). Commissioner Crawford finds that substitutability, not fungibility, is a more accurate reflection of the statute.

[76] *See* Titanium Sponge from Japan, Kazakhstan, Russia, and Ukraine, Inv. Nos. 751-TA-17-20, USITC Pub. 3119 at 7 (Aug. 1998); Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996).

with each other and with the domestic like product.[77] Only a "reasonable overlap" of competition is required.[78] Further, because of the prospective nature of Commission determinations in five-year reviews, the relevant inquiry is whether there would likely be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission's traditional factors, but also other conditions of competition that have a bearing on the likely volume and price trends of subject imports if the orders under review are revoked. Such an analysis is consistent with the Commission's analysis of cumulation in threat of material injury determinations, where the Commission has taken into account, among other factors, significant differences in volume and price trends among subject imports in deciding whether to exercise its discretion to cumulate.

In a five-year review, however, the Commission "shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry."[79] Neither the statute nor the SAA provides further guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact."[80] Prior to the URAA, cumulation was not required if the subject imports were "negligible," and had "no discernible adverse impact on the domestic industry."[81] Our prior practice provides some guidance in this regard, but we are mindful of the different focus for the review analysis on whether imports are "likely" to have no discernible adverse impact.[82] For these reviews, our discernible adverse impact analysis is focused on subject imports and competition among products that is likely to occur within a reasonably foreseeable time.

Here, the threshold criterion for cumulation is satisfied, because all of the sugar reviews were initiated on the same day.[83] The domestic producers argue that there is a reasonable overlap of

---

[77] *See e.g.*, Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[78] *See* Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd* 96 F.3d 1352 (Fed. Cir. 1996).

[79] 19 U.S.C. § 1675a(a)(7).

[80] The Senate Report concerning the URAA explains that "it is appropriate to preclude cumulation where imports are likely to be negligible" but it is not appropriate to adopt a strict numerical test "because of the extraordinary difficulty of projecting import volumes into the future with precision." S. Rep. 103-412, at 51 (1994).

[81] 19 U.S.C. §1677(7)(c)(v) (1994).

[82] The pre-URAA provision regarding treatment of negligible imports did not include numerical criteria. Rather the pre-URAA statute directed the Commission to "evaluate all relevant economic factors regarding imports" including whether: the volume and market share of imports were negligible; sales transactions were isolated and sporadic; and the domestic market is price sensitive. 19 U.S.C. § 1677(7)(c)(v)(1994). *See* Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 446-342, 344, and 347-353 (Final) and Inv. Nos. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 at 28 (Aug. 1993) ("Flat-Rolled Carbon Steel").

[83] Commissioner Crawford determines that the statute precludes the Commission from (continued...)

competition and that the Commission should exercise its discretion to cumulate and cross-cumulate subject imports from Belgium, France, Germany, Canada, and the European Union.[84] Rogers argues that there is no reasonable overlap of competition between imports from Canada and other subject imports and that, in any event, the Commission should not cumulate imports from Canada because they are likely to have no discernible adverse impact.[85] For the reasons discussed below, we do not cumulate subject imports from Canada with subject imports from Belgium, France, Germany and the European Union, because we find that subject imports from Canada are likely to have no discernible adverse impact on the domestic industry. We do, however, determine to cumulate imports from Belgium, France, Germany, and the European Union.[86]

---

[83] (...continued)
cumulatively assessing the volume and effect of imports from two or more countries when such imports do not consist of the same subject merchandise. Section 752(a)(7) of the Tariff Act of 1930, as amended, gives the Commission discretion to cumulatively assess the volume and effect of imports of "the subject merchandise" from all countries as to which reviews were initiated on the same day, if such imports compete with each other and with the domestic like product in the U.S. market. The statute specifically defines the term "the subject merchandise" as "the class or kind of merchandise that is within the scope of an investigation . . . ." 19 U.S.C. § 1677(25). Here, the classes or kinds of merchandise that are within the scopes of the Canadian order and the EU order differ from each other, and from the scopes of the Belgium, France, and Germany findings. Therefore imports from Canada and the EU are not eligible for cumulation with each other or with imports from the other three countries. Because the scopes covering imports from Belgium, France, and Germany are the same, only imports from these countries are eligible for cumulation under the plain reading of the statute. *See* Separate Views of Commissioner Crawford on Cumulation.

[84] USBSA and USCSRA Posthearing Brief, Exhibit 11 at 37-50.

[85] Rogers Posthearing Brief at 19-23.

[86] To the extent that these Views address the likely impact of imports from Canada (in the event of revocation) before considering whether there is a reasonable overlap of competition between the Canadian and domestic like product, and among the Canadian product and other subject imports, these Views do not reflect the sequence of Chairman Bragg's analysis.

In considering whether to cumulate subject imports from Canada, Belgium, France, Germany, and the European Union, Chairman Bragg first determined whether there was a "reasonable overlap of competition" between the domestic like product and the subject imports, and among the subject imports. The Chairman then proceeded to determine whether any "subject merchandise is likely to have no discernible adverse impact." In these reviews, the Chairman determined that a "reasonable overlap of competition" exists between the domestic like product and subject imports from Canada, Belgium, France, Germany, and the European Union, as well as among all subject imports.

For the reasons set forth below, Chairman Bragg further determined that imports from Canada are likely to have no discernible adverse impact on the domestic industry if the order is revoked.

B. Discussion

1. No Discernible Adverse Impact

In 1998, U.S. shipments of refined sugar from Canada were 12,102 short tons,[87] in a market that consumes close to 10 million short tons of refined sugar annually.[88] U.S. imports from Canada represented approximately 0.1 percent of domestic consumption in 1997, 1998, and interim (Jan.-Mar.) 1999.[89] While Canada was permitted to export up to 11,354 short tons raw value ("STRV") under the Canada-specific TRQ in the 1997/98 season, its actual exports amounted to 10,495 STRV.[90] Rogers Sugar, the only Canadian producer of refined beet sugar, operated at a *** rate of capacity utilization in 1997-1998 and, aside from an expansion underway to make up for closure of another beet processing facility, reported no planned capacity expansions at its Taber facility.[91]

Further, as discussed below, we find no reasonable likelihood that imports from Canada at the tier II duty rate will occur if the order is revoked. Thus, we find that Canadian imports are not likely to exceed Canada's potential in-quota level of 19,169 STRV (11,354 STRV allocated plus potential share of 7,815 STRV first-come, first-served global quota) in the reasonably foreseeable future if the antidumping duty order is revoked. We view this volume of imports as minimal, since it would amount to 0.2 percent of 1998 domestic apparent consumption.[92] Moreover, the additional tonnage available in the U.S. market would in fact be only the difference between current imports from Canada and Canada's country-specific quota allocation, because any additional imports from Canada under the global first-come, first-served quota would necessarily come at the expense of imports from other countries, and not domestic industry shipments. Finally, as discussed below, we find that even such a minimal increase in imports from Canada is unlikely, due to Rogers' capacity restraints and marketing commitments. Accordingly, we find that imports from Canada are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order is revoked, and decline to cumulate such imports with subject imports from Belgium, France, Germany, and the European Union.

---

[87] Table IV-1, CR at IV-2, PR at IV-2.

[88] Table III-A-1, CR at III-A-2, PR at III-A-2; Table I-21, CR at I-56, PR at I-44.

[89] Table I-21, CR at I-56, PR at I-44.

[90] Table I-9, CR at I-34, PR at I-26.

[91] Table IV-7, CR at IV-11, PR at IV-8; CR at IV-8-IV-10, PR at IV-6. We note that Rogers' capacity utilization did ***. From 1990 to 1994, imports from Canada were not limited by a quota and the antidumping duty deposit rate on imports from Canada was zero. During that period, imports of refined beet sugar from Canada averaged about 35,000 tons per year, or less than 0.5 percent of domestic consumption. Hearing Tr. at 115, 124, 174. Despite the price sensitivity of the U.S. sugar market, there is no evidence of record that subject imports from Canada have had any discernible adverse impact on the domestic industry either at 1990-1994 levels or at current lower levels. The only specific allegations of adverse impact made by the domestic industry with respect to imports from Canada concern imports of "stuffed molasses," a nonsubject product. CR at I-24-I-25, PR at I-19; Hearing Tr. at 30-31, 165-166. The domestic industry's only reference to subject imports from Canada is a vague assertion that during the period 1990-1994 importers of Canadian sugar "did discount" their prices in the Chicago area. Hearing Tr. at 166.

[92] Table I-21, CR at I-56, PR at I-44.

2. Reasonable Overlap of Competition

Raw and refined sugar are fungible products. Both producers and purchasers describe raw and refined sugar as commodities subject to widely known quality standards, and virtually all responding producers and purchasers indicated that domestic sugar is interchangeable with imports from all subject European countries and that subject European imports are interchangeable with each other.[93] The record indicates that the channels of distribution for domestic and imported European refined and raw sugar are the same. All raw sugar is imported directly by or sold to domestic refiners, while imported refined sugar is sold to the same end users that purchase sugar directly from domestic refiners.[94] With respect to geographic overlap, imports from Belgium, France, Germany, and the European Union enter the United States through ports on the East and West coasts, including Baltimore, Los Angeles, New York and San Francisco. Domestic sugar is shipped nationwide.[95] Finally, with respect to simultaneous presence, Commerce data show that subject imports from Belgium, Germany, and the European Union were shipped during every quarter of 1997 and 1998 and in the first quarter of 1999, albeit in small amounts.[96]

Overall, we find that there is a reasonable overlap of competition between subject imports from Belgium, France, Germany, and the European Union and the domestic like product as well as among the subject imports. We further find no reason why this reasonable overlap of competition would not continue to exist if the antidumping findings covering sugar from Belgium, France, and Germany and the countervailing duty order covering sugar from the European Union were revoked. We therefore conclude that the subject imports from Belgium, France, Germany, and the European Union would be likely to compete with each other and with the domestic like product in the U.S. market if the order were revoked. Moreover, Belgium, France, and Germany are members of the European Union as well as its largest sugar producers (accounting for over 56 percent of EU production in marketing year 1997/98).[97] For these reasons, and because there is no indication of other significant differences in the conditions of competition in these markets such that the likely volume and effect of subject imports would be substantially different, we conclude that it is appropriate to exercise our discretion to cumulate subject imports from Belgium, France, Germany, and the European Union in these reviews.

IV. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON SUGAR AND SYRUPS FROM CANADA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping finding or order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the finding or order "would be

---

[93] CR at I-26-I-27 and II-24, PR at I-21 and II-17.

[94] CR at I-28, PR at I-22.

[95] CR at IV-4, PR at IV-3.

[96] Imports from France were shipped in all quarters except the first and second quarters of 1997. CR at IV-4, PR at IV-3 (European Union); Department of Commerce, Official Imports Statistics (Belgium, France, and Germany quarterly import data) (included in public release of Aug. 25, 1999).

[97] Table IV-4, CR at IV-7, PR at IV-5.

likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[98] The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the finding or order] . . . and the elimination of its restraining effects on volumes and prices of imports."[99] Thus, the likelihood standard is prospective in nature.[100] The statute states that "the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time."[101] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations]."[102] [103]

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked."[104] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is

---

[98] 19 U.S.C. § 1675a(a).

[99] SAA at 883-84. The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry)." SAA at 883.

[100] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[101] 19 U.S.C. § 1675a(a)(5).

[102] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." *Id.*

[103] In analyzing what constitutes a reasonably foreseeable time, Commissioners Crawford and Koplan examine all the current and likely conditions of competition in the relevant industry. They define "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, they consider all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, their analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

[104] 19 U.S.C. § 1675a(a)(1).

20

related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.[105] [106]

In these reviews, the domestic producers argued that the Commission must make an affirmative determination as long as any reasonable interpretation of the facts of record will support such a conclusion.[107] As we previously stated in response to a very similar argument in Synthetic Methionine from Japan,[108] to the extent that the domestic producers seek to constrain the Commission's discretion by means of this argument, they misconstrue the cited SAA language, which simply underscores the predictive nature of sunset reviews and recognizes that the Commission's determination will not be deemed erroneous as long as it is reasonable in light of the facts of the case. The guidance offered by this passage of the SAA thus is not a mandatory instruction for the Commission to rule a certain way, nor is it intended to curb or otherwise limit the Commission's discretion to reach any reasonable determination based upon its view of the facts of the case.

For the reasons stated below, we determine that revocation of the antidumping duty order on sugar and syrups from Canada would not be likely to lead to continuation or recurrence of material injury to the domestic industry producing raw and refined sugar within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[109] In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for raw and refined sugar.

---

[105] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[106] Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings "the findings of the administrative authority regarding duty absorption." 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption findings in these matters.

[107] USBSA and USCSRA Prehearing Brief at 8 and Posthearing Brief at 3, *citing* SAA at 883. The referenced language of the SAA states:

> The determination called for in these types of reviews is inherently predictive and speculative. There may be more than one likely outcome following revocation or termination. The possibility of other likely outcomes does not mean that a determination that revocation or termination is likely to lead to continuation or recurrence of dumping or countervailable subsidies, or injury is erroneous, as long as the determination of likelihood of continuation or recurrence is reasonable in light of the facts of the case. In such situations, the order or suspended investigation will be continued.

[108] Inv. No. AA1921-115 (Review), USITC Pub. 3205 at 8-9 (July 1999).

[109] 19 U.S.C. § 1675a(a)(4).

The most important condition of competition in the U.S. sugar market is the U.S. "sugar program," a term generally used to refer to multiple government policies affecting the sugar industry, including the loan program administered by the Commodity Credit Corporation ("CCC") of the U.S. Department of Agriculture ("USDA"), the tariff-rate quota ("TRQ"), and the safeguards program.[110] The purpose of the sugar program is to stabilize and maintain sugar prices in the U.S. market and thereby protect farm income.[111] The sugar program, as currently structured, is a fundamental change in market conditions since the existing orders were issued.

The United States is now, and historically has been, a net importer of sugar. Thus, the domestic industry produces almost entirely for domestic consumption, but is not able to satisfy domestic demand and exports very little.[112] In addition, the United States has international commitments under the World Trade Organization ("WTO") and North American Free Trade Agreement ("NAFTA") to accept a certain minimum tonnage of raw and refined sugar imports annually.[113] The TRQ is administered to accommodate both U.S. demand and the minimum level of required imports through the operation of a two-tier system. Each year, USDA determines the "tier I" level of imports by calculating the amount of sugar the United States is required to permit to be imported pursuant to international commitments plus any additional amount needed to meet anticipated U.S. demand.[114]

So-called "within quota" or "tier I" imports are dutiable at 0.63 cent/pound for raw cane sugar and 1.43 to 1.66 cents/pound for refined sugar. Within quota imports from Mexico and Canada are duty free under NAFTA.[115] Any additional "over quota" sugar imports pay the tier II duty, which is currently 13.6 cents/pound raw and 9.32 to 14.41 cents/pound refined for Mexico and 15.82 cents/pound raw and 16.69 cents/pound refined for all other countries (including Canada). Over quota imports from countries other than Mexico and Canada also may be subject to additional "safeguard" duties.[116] USDA does not

---

[110] CR at I-29-I-37, PR at I-22-I-29; USBSA and USCSRA Prehearing Brief at 13-18; Rogers Prehearing Brief at 8-10; Rogers Posthearing Brief at 5, 30-31.

[111] CR at I-28, PR at I-22.

[112] Hearing Tr. at 14; Table III-A-1, CR at III-A-2, PR at III-A-2.

[113] Pursuant to market access commitments under the Uruguay Round agreements, the United States is required to permit imports of not less than 1,117,195 metric tons (1,231,484 short tons) annually of raw cane sugar and not less than 22,000 metric tons (24,251 short tons) annually of other sugars (including all refined sugar and raw beet sugar), syrups, and molasses at lower (tier I) duty rates. CR at I-30, PR at I-23. In fiscal year 2001, U.S. minimum commitments for imports from Mexico under NAFTA rise from 30,814 short tons to 275,575 short tons. Table I-9, CR at I-34, PR at I-26; CR at II-9, PR at II-6; Hearing Tr. at 17. It is unclear whether such additional tonnage from Mexico is intended to be in addition to or in place of tonnage currently included under the TRQ allocations of other countries. Hearing Tr. at 20-21.

[114] CR at I-30 and II-7-II-8, PR at I-23 and II-5-II-6; USBSA and USCSRA Posthearing Brief, Exhibit 11 at 56. While USDA sets the total quota amount, the Office of the United States Trade Representative ("USTR") allocates the quota among all eligible exporting countries.

[115] Table I-8, CR at I-32, PR at I-25.

[116] Table I-8, CR at I-32, PR at I-25. The tier II duty rate for countries other than Mexico declines to 16.2 cents/pound in 2000. Safeguard duties are provided for in the WTO Agreement on Agriculture. Current U.S. safeguard duties are price-based, which means that the additional duty varies

(continued...)

release all of the tier I quota at once. Therefore, it can adjust the amount permitted to be imported under the annual TRQ downward through the cancellation of one or more of three scheduled annual "tranches" (allotments) in the event that domestic stock-to-use ratios are higher than anticipated. However, the TRQ cannot be decreased below the level to which the United States has committed under its WTO and NAFTA agreements.[117]

The level at which the TRQ is set in turn determines the kind of loans made available by the CCC. Loans are made to cane millers and beet processors. The CCC loan rate is currently 22.9 cents/pound for refined beet sugar and 18 cents/pound for raw cane sugar.[118] If USDA sets the TRQ at more than 1.5 million tons, the CCC must make non-recourse loans, which give domestic producers the option of repaying the loan amount at the end of the season or forfeiting their collateral (*i.e.*, their sugar production) plus a one cent/pound forfeiture penalty. The government would have no recourse for collection on the loan balance beyond the forfeited collateral. If the TRQ is 1.5 million tons or less, the CCC makes recourse loans, which require the loan recipient to pay back the loan amount rather than merely to forfeit collateral. Since the sugar program was most recently revised in 1996, all loans have been non-recourse.[119] Thus, by operation of the loan rate and the non-recourse loan provision, the result of the CCC loan program is to create a minimum price for raw cane sugar and refined beet sugar (and indirectly for refined cane sugar) in the U.S. market.[120]

A related condition of competition is the USDA's goal of operating the sugar program at no cost to the U.S. Government. Prior to 1996, USDA was required by law to operate the loan program at no cost to the government. It achieved that goal by regulating the amount of imports under tier I of the TRQ in order to maintain a domestic price at least as high as the loan rate, thereby avoiding forfeitures. The legal requirement that the program be operated at no cost to the government was eliminated in 1996, but USDA has continued to operate the program on that basis.[121] All of the various tariffs applicable to U.S. sugar imports are effectively bound and cannot be increased consistent with U.S. international commitments. Therefore, once USDA reduces the TRQ to the minimum provided for by U.S. international commitments, it has no further discretionary means at its disposal for controlling import volumes and thereby maintaining the domestic price of sugar. Thus, once tier I of the TRQ is reduced to

---

[116] (...continued)
with the declared import value of the merchandise. Because the trigger for application of safeguard duties is price-based, safeguard duties operate independently of tier II duties under the TRQ. Refined sugar imports with a declared import value exceeding 15.88 cents/pound are not subject to safeguard duties. In addition, no safeguard duties apply to imports from Canada and Mexico. CR at I-33-I-36, PR at I-24-I-28; Table I-10A, CR at I-36, PR at I-28.

[117] CR at II-7-II-8, PR at II-5; USBSA and USCSRA Posthearing Brief, Exhibit 11 at 56-58.

[118] CR at I-29, PR at I-22.

[119] Hearing Tr. at 18, 53.

[120] CR at I-29-I-30 and II-6-II-7, PR at I-22-I-23 and II-3-II-5; USBSA and USCSRA Posthearing Brief, Exhibit 11 at 67-68; Hearing Tr. at 15. However, the domestic price for refined sugar has been consistently above 22.9 cents/pound since the loan rate was set at that amount in 1985. Figure V-5, CR at V-11, PR at V-8.

[121] CR at I-30, PR at I-23; USBSA and USCSRA Posthearing Brief, Exhibit 11 at 54-55; Rogers Posthearing Brief at 25.

the minimum level consistent with international commitments, any factor that reduces domestic prices below the loan rate could trigger forfeitures on non-recourse loans, imposing costs on the government.[122]

Thus, the relationship between the world price of sugar and the U.S. price becomes critical in determining the volume of sugar, if any, that is likely to be imported at the tier II duty rate. The world price for sugar is historically quite volatile. Due to high world production of sugar, the world price is currently at near-record low levels.[123] Because of the price-support program and the TRQ, the U.S. price of sugar is generally higher and less volatile than the world price.[124] While the current world price for refined sugar is less than nine cents per pound, the current U.S. price for refined sugar is approximately 27.00 cents per pound.[125] For the first time since the current sugar program has been in place, the world price is low enough relative to the U.S. price that there is an incentive for some foreign producers to ship over-quota sugar to the United States even after paying the tier II duties (and safeguard duties, if triggered).[126] [127]

Finally, as discussed above with respect to cumulation, we find that sugar is a substitutable commodity product regardless of source.[128] The U.S. sugar market is extremely price sensitive,[129] such that even very small price differences can cause purchasers to switch suppliers.[130] Moreover, the majority of sales in the U.S. market are made pursuant to annual contracts, most of which are negotiated

---

[122] USBSA and USCSRA Posthearing Brief at 6-8; Hearing Tr. at 20-21, 54-55.

[123] Table I-6, CR at I-18, PR at I-15; CR at II-16, PR at II-10; Hearing Tr. at 58, 123, 153, 162; USBSA and USCSRA Posthearing Brief at 11-12 and Exhibit 9 at 2-3; USBSA and USCSRA Prehearing Brief at 18-19. World refined sugar prices are futures prices from the London International Financial Futures and Options Exchange. The world prices do not include import duties and are, in that sense, free market prices. CR at V-9, PR at V-7.

[124] CR at V-10, PR at V-7; Hearing Tr. at 96-99; Rogers Prehearing Brief at 8-9; USBSA and USCSRA Prehearing Brief at 20.

[125] USDA, Sugar and Sweetener (May 1999), Tables 2 and 5 (most recent prices reported are April 1999 world and May 1999 U.S.).

[126] Tier II imports are currently entering the United States from Mexico. We note, however, that sugar from Mexico is dutiable at a lower tier II rate than sugar from all other countries and that both Mexico and Canada are not subject to safeguard duties. Table I-8, CR at I-32, PR at I-25; Table I-10A, CR at I-36, PR at I-28; USBSA and USCSRA Prehearing Brief at 19-20; Hearing Tr. at 115-116, 168; Rogers Posthearing Brief at 8-9.

[127] Commissioners Crawford and Askey do not agree that the U.S. market is becoming an attractive market for those subject imports that are subject to tier II duties. *See* their Dissenting Views. In addition, they note that nearly all imports subject to tier II duties are from Mexico, and therefore have a lower tier II tariff rate than subject imports and are not subject to safeguard duties. CR at II-8-II-9, PR at II-6.

[128] While refined sugar from the various sources are good physical substitutes, differences in transportation costs among the sources may affect domestic purchasers' decisions to buy Canadian or EU sugar vis-à-vis the U.S. product.

[129] Commissioner Crawford does not join this conclusion.

[130] Domestic producers testified that sales can be won and lost based on price differences of as little as 0.1 cent per pound. Hearing Tr. at 28.

during a narrow window of time in the fall after the size of the beet crop is estimated and the TRQ is set for the next year. As the number of market participants has declined through consolidations, price competition for these contracts has become more intense.[131]

Based on the record evidence, we find that these conditions of competition in the U.S. raw and refined sugar market are not likely to change significantly in the reasonably foreseeable future.[132] Accordingly, we find that current conditions in the U.S. raw and refined sugar market provide us with a reasonable basis upon which to assess the likely effects of revocation of the antidumping duty order within the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[133] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[134]

In the original determination concerning Canada, the Commission found that imports from Canada of refined sugar increased from only one short ton in 1974 to a high of 138,000 short tons in 1977, then declined to 98,000 short tons in 1978, and were 81,000 tons in the first three quarters of 1979. It further found that such imports held a market share in the Northeastern States region of 4.5 percent in 1977, 3.3 percent in 1978, and 4.0 percent in interim (Jan.-Sept.) 1979.[135] At that time (from 1975 through 1981) the United States had no quota on sugar imports.[136] In 1980 and 1981, the years during and immediately following the original investigation and imposition of the antidumping duty order, imports from Canada fell to 638 and 2,597 short tons, respectively.[137] In 1982, the United States instituted absolute quotas on sugar imports, allocating to Canada 1.1 percent of the global quota. In the same year, the antidumping duty deposit rate applicable to Rogers declined from the original rate of just

---

[131] CR at V-5, PR at V-5; Hearing Tr. at 25, 26, 28, 30-31, 72-73; USBSA and USCSRA Posthearing Brief at 8-10. The domestic producers also testified that, although contracts generally do not include meet and release clauses, purchasers will often refuse to take agreed upon shipments if prices fall, or will seek compensation in the current or next year's contract.

[132] We note that, under existing legislation, the U.S. sugar program is funded through September 2002. CR at I-29, PR at I-22.

[133] 19 U.S.C. § 1675a(a)(2).

[134] 19 U.S.C. § 1675a(a)(2)(A)-(D). There is no potential for product-shifting in this review, because sugar can only be produced in dedicated facilities.

[135] Canada Original Determination at 7.

[136] CR at I-29, PR at I-22.

[137] Table IV-2, CR at IV-3, PR at IV-3.

over one cent per pound to zero, where it has remained ever since.[138] During the period 1982-1986, imports from Canada ranged from 35,035 to 14,501 short tons.[139]

In 1987, the United States Customs Service ("Customs") ruled that refining imported raw cane sugar is not a substantial transformation of the sugar for purposes of establishing country of origin. Since that time, imports from Canada have consisted exclusively of refined beet sugar made from sugar beets grown in Canada.[140] Imports of refined sugar from Canada ranged from 10,509 to 10,870 short tons during 1987-1989.[141]

From 1990 through 1994 there was no quota on imports from Canada and the antidumping duty deposit rate was zero. During that period, imports of refined sugar from Canada ranged from 27,496 to 58,748 short tons, averaging about 35,000 tons per year (less than half of one percent of domestic consumption). In 1995 and 1996, when Canada shared in the first-come, first-served TRQ allotment, U.S. imports from Canada of refined sugar fell to 25,245 and 8,402 short tons, respectively.[142] Starting in 1997, Canada has been allocated an 11,354 STRV per year share of the TRQ, in addition to having access to the first-come, first-served refined sugar quota of 7,815 STRV.[143] Imports from Canada were 12,731 STRV in 1997, 12,102 STRV in 1998, and 1,828 STRV in interim (Jan.-Mar. 1999).[144]

Thus, despite periods in which sugar imports from Canada have been subject to a zero antidumping duty deposit rate, zero tariff rate, and no quota, imports have never approached their pre-order levels. Moreover, despite the fact that sugar prices in Canada are far lower than U.S. prices, Canada has not filled its share of the TRQ since that share was allocated in 1997.[145] Based on this historical pattern and for the reasons discussed below, we find that the volume of subject imports from Canada is not likely to be significant if the order is revoked.

Like the United States, Canada is a large net importer of sugar at world market prices. Canada maintains no quota or similar controls on sugar imports.[146] Given the market orientation of the Canadian

---

[138] CR at I-13 and I-29, PR at I-11 and I-22; Hearing Tr. at 114. The antidumping duty order was revoked as to Redpath and Lantic, the other two remaining Canadian producers, in 1984 and 1987, respectively.

[139] Table IV-2, CR at IV-3, PR at IV-3.

[140] CR at I-25-I-26 and n.37, PR at I-20 and n.37. Customs' ruling means that raw cane sugar imported into Canada and refined in Canada is not considered a Canadian product for purposes of U.S. quotas, tariff rates, and safeguard duties but rather a product of the country of origin of the raw cane sugar.

[141] Table IV-2, CR at IV-3, PR at IV-3.

[142] Table IV-2, CR at IV-3, PR at IV-3; Hearing Tr. at 124.

[143] Hearing Tr. at 114-115; CR at I-31, PR at I-24.

[144] Table IV-1, CR at IV-2, PR at IV-2; Table IV-2, CR at IV-3, PR at IV-3. The data for 1997 and 1998 may include some nonsubject and/or non-quota merchandise, because USDA reports that within quota imports from Canada were 10,495 STRV in fiscal year 1997/98 and 10,527 STRV in fiscal year 1998/99. Table I-9, CR at I-34, PR at I-26; CR and PR at Appendix F. Short tons refined sugar divided by 0.96 equals STRV.

[145] Table I-9, CR at I-34, PR at I-26.

[146] Canada has modest customs duties on imported sugar. It also currently has a countervailing
(continued...)

26

sugar industry as a whole and Rogers in particular, we find no basis to conclude that tier II imports from Canada would be likely to occur if the antidumping duty order were revoked. A representative of Rogers testified that, at the current U.S. and world prices, a sale in the United States at the tier II duty rate would be less profitable than Rogers' least profitable sale in Canada.[147] Indeed, the record reveals that, at current U.S. and world market prices and after accounting for significant inland transportation costs from west central Canada to a major U.S. market (noted *infra*), the net return received on a tier II sale in the United States would likely be considerably less than the net return after transportation costs on a sale at the world price (or a somewhat higher price) prevailing in Canada.[148] Thus, Rogers would have no incentive to make additional U.S. sales at the tier II duty rate, rather than sell its product in the Canadian home market, if the antidumping duty order were revoked.[149]

Accordingly, we find that at most Canadian exports to the United States would be likely to increase only minimally in the reasonably foreseeable future if the antidumping duty order were revoked.[150] We further find, however, that even a minimal increase in imports from Canada is not likely, for several reasons.

Rogers is the only producer of refined beet sugar in Canada and the only Canadian producer still subject to the antidumping duty order. Because of the Customs ruling on substantial transformation, Rogers is the only Canadian producer that can export Canadian sugar to the United States. Rogers' total capacity to produce beet sugar declined from *** short tons in 1997 to *** short tons in 1998. While

---

[146] (...continued)
duty order in place against imports of sugar from the European Union and an antidumping duty order applicable to imports from the United States. Hearing Tr. at 111, 158.

[147] Hearing Tr. at 124-125, 173.

[148] As noted above, the current U.S. price for refined sugar is approximately 27 cents per pound, while the current world price is less than nine cents per pound. The tier II tariff rate applicable to Canada is 16.69 cents per pound in 1999 and will be 16.2 cents per pound in 2000. USDA, <u>Sugar and Sweetener</u> (May 1999), Tables 2 and 5; Table I-8, CR at I-32, PR at I-25; Hearing Tr. at 124-126; CR at V-2, PR at V-2 (transportation costs from Canada add an average of 4.5 percent to cost of sugar delivered to the United States).

[149] We note, in this regard, that the world price for refined sugar has been on a declining trend during 1998 and the first four months of 1999, while the U.S. price for refined sugar has been generally rising over the same period. USDA, <u>Sugar and Sweetener</u> (May 1999) at Tables 2 and 5.

[150] Because we find that Rogers would not ship over-quota sugar to the United States if the order were revoked, the most that Canadian imports to the United States could possibly increase is about 8,600 short tons, which represents the difference between total 1997/98 in-quota imports from Canada and the sum of the Canada-specific TRQ and the entire first-come, first-served global TRQ for refined sugar. Tables I-9 and I-11, CR at I-34 and I-37, PR at I-26 and I-29. That amounts to less than 0.1 percent of domestic consumption. Table I-21, CR at I-56, PR at I-44. The additional tonnage available in the U.S. market would in fact be only the difference between current imports from Canada and Canada's country-specific quota allocation, because any additional imports from Canada under the first-come, first-served quota would be at the expense of imports from other countries. We note that it is extremely speculative to assume that the Canadian producer will out-bid every other foreign producer and fill all of the first-come, first-served quota with its merchandise. We are giving the benefit of the doubt to the domestic producers, however, in this regard.

capacity utilization fell between 1997 and 1998, it was still *** percent in 1998.[151] Rogers' total production of beet sugar was *** short tons in 1997 and *** short tons in 1998, which is equivalent to approximately *** percent, respectively, of total U.S. consumption in those years.[152] Rogers reported plans to increase capacity at its Taber, Alberta, beet processing facility, but noted that the expansion was needed to replace capacity lost through the closure of a second beet processing facility in Manitoba in 1996 and would result in no net increase in overall beet sugar production capacity. Rogers plans no other capacity expansions at this time.[153] The vast majority of Rogers' shipments -- *** percent in 1997 and *** percent in 1998 -- is sold in its home market.[154] Moreover, because of high transportation costs associated with reaching its core market, Rogers holds an extremely large share of the market in west central Canada, including substantial sales to soft drink bottlers in the region, and is committed to maintaining its home market share.[155] Although the United States was Rogers' *** export market for beet sugar during 1997-1999, beet sugar exports to the United States represented only about one percent of total Canadian refined beet and cane sugar shipments.[156] Overall, given Rogers' large, secure domestic market, limited capacity, and high level of capacity utilization, we conclude that Rogers has little incentive to increase its exports to the United States significantly over current levels if the antidumping duty order is revoked.

In light of the foregoing considerations, we conclude that the volume of subject imports from Canada is not currently significant in the context of the conditions of competition in the U.S. and Canadian sugar markets. We further conclude that the volume of subject imports from Canada is not likely to reach significant levels within a reasonably foreseeable time if the antidumping duty order is revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.[157]

In the original determination, the Commission found that underselling by Canadian refined sugar had forced domestic refiners in the Northeastern States region either to make substantial discounts from their list prices in order to meet competition or to risk the loss of grocery shelf space that was difficult to

---

[151] Table IV-7, CR at IV-11, PR at IV-8.

[152] Table I-21, CR at I-56, PR at I-44; Table IV-7, CR at IV-11, PR at IV-8.

[153] CR at IV-10, PR at IV-6; Hearing Tr. at 122.

[154] Table IV-7, CR at IV-11, PR at IV-8. The *** of Rogers' beet sugar shipments in those years was exported to the United States.

[155] Hearing Tr. at 138-139, 141 (95 percent market share in Western Canada).

[156] Table IV-8, CR at IV-12, PR at IV-9.

[157] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

regain. The Commission also found several instances of lost sales where subject import prices were below domestic producers' cost of production. The Commission concluded that LTFV imports of sugar from Canada had contributed materially to price suppression and price depression of sugar sold in the Northeastern States region.[158]

As discussed in the context of conditions of competition in this market, sugar is a substitutable commodity product regardless of source, and the U.S. market for sugar is as price sensitive[159] today as the Commission found it to be in the original investigation. As noted above, however, we find that Rogers, the only Canadian producer still covered by the order, is not likely to significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty order is revoked. Thus, we find that the likely volume of imports from Canada resulting from revocation of the antidumping duty order would be so minimal that it is unlikely to have a significant effect on domestic prices for raw or refined sugar.[160] Accordingly, we conclude that the Canadian product is unlikely to enter the United States at prices that would have a significant depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[161] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[162] As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty

---

[158] Canada Original Determination at 5, 8.

[159] Commissioner Crawford does not join this conclusion.

[160] The domestic producers contend that every 100,000 short tons of additional supply in the U.S. sugar market lowers the U.S. price by about 0.4 cent per pound. Hearing Tr. at 163-164. Because we think it is unlikely that imports from Canada would increase significantly from current levels, any price effects from such imports are not likely to be significant if the order is revoked.

[161] 19 U.S.C. § 1675a(a)(4).

[162] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887. In its final five-year review determination concerning sugar and syrups from Canada, Commerce determined that the magnitude of the dumping margin that is likely to prevail if the antidumping duty order were revoked is 1.0105 cents/pound for Rogers and 2.37 cents/pound for all others. 64 Fed. Reg. 48362 (Sept. 3, 1999).

order at issue and whether the industry is vulnerable to material injury if the order is revoked.[163] We have also considered the likely effects of subject imports on the government price-support program if the order were revoked.

In its original determination, the Commission found that, by depressing and suppressing domestic prices, subject imports from Canada contributed to the declining capacity utilization, profits, and return on investments of the regional producers. It also found that subject imports caused prices in the region to fall below the minimum support price, resulting in substantial forfeitures to the CCC.[164]

Given the myriad changes in the U.S. sugar market since imposition of the order at issue, it is difficult to assess whether there has been any improvement in the condition of the domestic industry as a result of the order. We do find, however, that the domestic industry producing raw and refined sugar is vulnerable to material injury if the order is revoked.[165] We base this finding on the low operating returns evident in some segments of the domestic industry and the overall lackluster financial performance of the industry as a whole, despite the operation of the U.S. sugar program.[166] In particular, we note that net profits as a percentage of net sales for cane refiners and non-cooperative beet processors declined from 5.6 percent in 1997 to 2.1 percent in 1998, and were 2.7 percent in interim (Jan.-Mar.) 1999, compared with 3.3 percent in interim 1998.[167] The ratio of net proceeds to net sales also declined between 1997 and 1998 for cooperative cane millers.[168] Nevertheless, because we have concluded that no significant adverse volume or price effects are likely to occur if the order were revoked, we likewise find no reasonable likelihood that subject imports from Canada will have an adverse impact on either the domestic industry or the domestic price-support program. Therefore, we conclude that revocation of the antidumping duty order would not be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, likely negative effects on cash

---

[163] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[164] Canada Original Determination at 5-6, 9-11.

[165] Commissioners Crawford and Askey find that the domestic industry is not vulnerable because the sugar program insulates the domestic industry from import competition and creates a minimum price in the U.S. market.

[166] *See generally* Tables III-B-3a, III-B-3b, III-B-4a, III-B-4b, and III-B-5a, CR at III-B-13-III-B-14, III-B-16-III-B-17, and III-B-19, PR at III-B-7-III-B-8, III-B-11-III-B-13.

[167] Table I-3B, CR at I-11, PR at I-10. Because cooperative beet processors do not include the cost of sugar beets in their cost of goods sold, their financial results are not comparable to those of non-cooperative producers. We note that their operating income as a percentage of net sales declined between 1997 and 1998, but was slightly higher in interim 1999 than in interim 1998. *See* Table III-B-3a, CR at III-B-13, PR at III-B-7.

[168] Table III-B-4a, CR at III-B-16, PR at III-B-11. The operating income as a percentage of net sales for non-cooperative sugar cane millers rose between 1997 and 1998. Table III-B-4b, CR at III-B-17, PR at III-B-12. Sugar cane growers' gross value of production less cash expenses declined between 1994 and 1996, the period for which data were available, while sugar beet growers' gross value of production less cash expenses increased between 1995 and 1997. Tables III-B-1 and III-B-2, CR at III-B-11-III-B-12, PR at III-B-4 and III-B-6.

flow, inventories, employment, wages, growth, ability to raise capital, and investment, likely negative effects on the domestic industry's development and production efforts, or likely forfeitures to the CCC under the price-support program within a reasonably foreseeable time.

V. REVOCATION OF THE ANTIDUMPING FINDINGS ON SUGAR FROM BELGIUM, FRANCE, AND GERMANY AND THE COUNTERVAILING DUTY ORDER ON SUGAR FROM THE EUROPEAN UNION ARE LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME[169]

A. Legal Standard and Conditions of Competition

For purposes of our affirmative determinations with respect to sugar from Belgium, France, Germany, and the European Union ("EU"), we adopt the discussion of the legal standard and conditions of competition contained in sections IV.A and IV.B, *supra*. We also find that there is an additional condition of competition relevant to our analysis in these reviews: the EU sugar program.

The EU sugar program, which is part of the Common Agricultural Policy ("CAP"), is a complex arrangement including price controls, production controls, import restrictions, and export subsidies.[170] Under the program, sugar beets produced in the EU are annually designated as part of the "A quota," "B quota," or as "C sugar" prior to processing. The A quota is intended to assure production of the quantity of sugar needed to meet anticipated demand within the EU in the coming year. The B quota, which is generally between 10 and 35 percent of the A quota, is set to assure that sugar stocks are adequate to meet shifts in supply or demand for A quota sugar in the EU. Any sugar not classified under the A or B quota is classified as C sugar.[171]

Sugar from the A quota can be either sold in the EU or exported, but all other sugar produced in the EU, unless needed from the B quota to meet demand, must be exported. Quota portions are allocated on the basis of historical production patterns.[172] Significantly, a producer's failure to fill its annual quota allotments can result in reduction of the next year's allotment.[173] As a consequence, producers have an incentive to overproduce in order to assure that they can always fill their quota allotments, and thus maintain their quota allotments from year to year. This results in substantial surplus production (*i.e.,* C sugar) that must be exported from the EU.

Under the EU program, guaranteed prices, known as "intervention prices," are set each marketing year for both A and B quota sugar. Intervention prices guarantee processors a minimum price for raw and

---

[169] Commissioner Crawford and Commissioner Askey do not join this section. *See* their Dissenting Views.

[170] We are somewhat hampered in our ability to assess the full effects of the EU sugar program by the fact that the European respondents did not participate in these reviews. In the adequacy phase of these reviews, the Commission received no responses to the notice of institution from any interested party from Belgium, France, Germany, or the European Union. In the full phase of these reviews, the Commission received usable questionnaire responses from only two of the more than twenty EU sugar producers. CR at IV-5, PR at IV-4.

[171] CR at I-14-I-15, PR at I-12.

[172] CR at I-15, PR at I-12.

[173] CR at II-10, PR at II-7.

refined sugar produced under the A and B quotas. In marketing year 1999/2000, the intervention price for A and B quota refined sugar is $740.07 per short ton, or approximately 37 cents per pound.[174] C sugar receives no price guarantee. In addition, the program provides for minimum prices that processors must pay to farmers for A and B quota sugar beets.[175] This guaranteed minimum price, which is well above both the world price and the U.S. price, acts not only to encourage the production of A and B sugar, but also indirectly benefits the production and export of C sugar because it makes overproduction of C sugar less damaging to the financial bottom line than it otherwise might be. Indeed, the programs for the A and B sugar are so lucrative that it is financially prudent for EU growers and processors to produce significant quantities of C sugar (which must be sold at a loss) in order to maintain the A and B quota levels.

In order to assure that producers receive the guaranteed minimum price for their A and B quota sugar production when that production is exported, EU sugar producers are given restitution payments at the end of the marketing year to make up the difference between the current world price and the internal price on quantities exported.[176] No payments are given for C sugar production, and EU producers are forced to pay penalties at the end of the marketing year if they cannot provide evidence that all C sugar was exported.[177] All EU producers pay a production levy on their A and B sugar volumes in order to recoup the cost of export restitution payments made by the EU Commission. The levy on A sugar is relatively low, however (about 2 percent of the intervention price).[178]

Finally, the EU controls sugar imports through a system of variable tariffs which are imposed in addition to regular import duties listed in the Common Customs Tariff when world prices fall below a certain level. Those rates are frequently revised. This system of frequently changing tariffs has effectively shut out sugar imports to the EU, except those from countries that receive preferential treatment under the Lomé Convention and other such arrangements.[179]

---

[174] Table I-4, CR at I-16, PR at I-13; CR at I-15, PR at I-12.

[175] CR at I-15, PR at I-12.

[176] CR at I-15, PR at I-12-I-13. In five-year reviews concerning countervailing duty orders, the Commission is required to consider "information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." 19 U.S.C. § 1675a(6). In its final determination in the five-year review concerning sugar from the EU, Commerce found that the EU export restitution program is a countervailable export subsidy, but that it is not a subsidy described in Articles 3 or 6.1 of the Subsidies Agreement, because it falls within an exception for certain agricultural subsidies governed by the Agreement on Agriculture. 64 Fed. Reg. 49464 (Sept. 13, 1999).

[177] CR at I-15, PR at I-12. Since marketing year 1995/1996, subsidized sugar exports from the European Union have been subject to limits, both in volume and subsidy value, under Uruguay Round commitments. Although official EU notifications of volume and subsidy value have not been made for the 1997/98 and 1998/99 marketing years, USDA predicts that they will exceed the EU's commitments, which will require the use of non-allocated subsidy commitments from prior years (until those are exhausted). CR at I-16-I-17, PR at I-13-I-14.

[178] CR at I-19, PR at I-15-I-16.

[179] CR at II-11-II-12, PR at II-8.

In sum, despite the high internal price of sugar in the EU and the fact that EU producers are on average less efficient than U.S. beet sugar producers, the EU sugar program encourages large surplus production and makes the EU one of the world's largest net exporters of sugar.[180]

B. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the findings and order under review are revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[181] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[182]

In the original determinations concerning Belgium, France, and Germany, the Commission found that subject imports of raw sugar represented 9 percent of the sugar refined in the Southeastern region and that these imports had taken sales from domestic cane millers, resulting in forfeiture of about 40 percent of the 1977/78 crop to the CCC.[183] In the original determination concerning the European Community, the Commission found that the EC had over 5 million short tons of sugar available for export from the 1981/82 crop, an amount which almost equaled total U.S. imports for 1981. It reasoned that, because the United States was the world's second largest importer of sugar, the EC would target the United States market if the existing countervailing duty order were revoked.[184]

Current EU sugar exports to the United States are virtually nonexistent.[185] Nevertheless, our focus in five-year reviews is on the likely volume of subject imports that would enter the United States if the antidumping findings and countervailing duty order were revoked. Based on the facts in the record of these reviews, we find that the volume of cumulated imports of sugar from Belgium, France, Germany, and the European Union is likely to be significant in the reasonably foreseeable future if the findings and order are revoked.

The amount of surplus EU production available for export has increased significantly since the time of the Commission's original determinations. In crop year 1997/98, the last year for which complete data are available, EU sugar exports totaled over 7 million STRV, with "C" sugar alone totaling over 5

---

[180] CR at II-12-II-13, PR at II-8-II-9; Table II-1, CR at II-5, PR at II-4 (including the EU among "major exporters" of refined beet sugar).

[181] 19 U.S.C. § 1675a(a)(2).

[182] 19 U.S.C. § 1675a(a)(2)(A)-(D). There is no potential for product-shifting in these reviews, because sugar can only be produced in dedicated facilities.

[183] BF&G Original Determination at 4-5.

[184] EU Original Determination at 8-9.

[185] CR at IV-1-IV-3, PR at IV-1; Table IV-2 at note 1, CR at IV-3, PR at IV-3.

million STRV.[186] This amount is equal to about 73 percent of U.S. apparent consumption and more than three times total U.S. imports in 1998.[187] As discussed above, the EU sugar program requires that surplus production, including all "C" sugar, be exported. The EU is predicted to continue producing and exporting large surpluses over the next several years.[188] At present, the EU's largest export markets are principally in North Africa and the Middle East.[189] For the following reasons, however, we conclude that, despite the existence of the U.S. TRQ and safeguard duties, producers in the EU would be likely to shift a significant volume of C sugar export sales from third country markets to the United States if the antidumping findings on sugar from Belgium, France, and Germany and the countervailing duty order on sugar from the EU were revoked.

Because EU producers are required to export their surplus production and receive no direct export subsidies on exports of "C" sugar, they will sell that sugar in the market that provides the highest overall net return. As discussed above, taking into account tier II duties, the U.S. price for refined sugar presently exceeds the world price by about 1.5 cents/pound (about 17 percent).[190] Thus, if the findings and the order were revoked, EU producers would have an incentive to export to the U.S. market, given the commodity nature of the sugar market. This incentive will increase next year, when the tier II duty rate declines from 16.69 to 16.2 cents/pound. At that tier II duty rate, EU producers would earn a significantly higher return on sales in the United States (even after paying tier II duties) than on sales at the world price if the applicable antidumping findings and countervailing duty order were revoked.[191] We note, in this regard, that the world price for refined sugar has been on a declining trend during 1998 and the first four months of 1999, while the U.S. price for refined sugar has been generally rising over the same period.[192] Moreover, experts report that the world price is unlikely to increase significantly in the foreseeable future.[193] Because the net return that EU producers could obtain for their refined sugar in the United States (with a tier II duty of 16.2 cents/pound) is more than 20 percent higher than they could obtain selling at the world price, we conclude that they would sell a substantial portion of their four to five

---

[186] Table IV-4, CR at IV-7, PR at IV-5. The "C" sugar production total includes 314,000 STRV from Belgium/Luxembourg, 2,081,000 STRV from France, and 881,000 STRV from Germany. We find that the ability of EU producers to export C sugar to the United States is best measured in terms of their total surplus production rather than in more traditional measures of excess capacity and inventories.

[187] Table I-21, CR at I-56, PR at I-44.

[188] CR at IV-6, PR at IV-4.

[189] CR at II-12, PR at II-8.

[190] The most recent U.S. and world prices for refined sugar of record are 27 cents per pound and 8.79 cents per pound, respectively. USDA, Sugar and Sweetener (May 1999), Tables 2 and 5. The current tier II tariff rate applicable to the EU is 16.69 cents per pound. Table I-8, CR at I-32, PR at I-25.

[191] Our conclusion is based on the assumption that importers would set the entered value of EU sugar at no less than 15.88 cents per pound, thereby avoiding any additional safeguard duties. Table I-10A, CR at I-36, PR at I-28. An import value exceeding 15.88 cents per pound is certainly credible for Customs purposes when the U.S. price is 27 cents per pound.

[192] USDA, Sugar and Sweetener (May 1999) at Tables 2 and 5.

[193] USBSA and USCSRA Posthearing Brief at Exhibit 9 (citing, *inter alia*, statements by International Sugar Organization Executive Director Peter Baron, ISO Chief Economist Tony Hannah, German research firm F.O. Licht GmbH, French research firm Etudes et Recherches Sucrieres, Deutsche Bank Securities, and officials from Brazil and Thailand).

million STRV annual production of "C" sugar in the United States, if the antidumping findings and countervailing duty order were revoked.

In light of the foregoing considerations, we conclude that the volume of cumulated subject imports from Belgium, France, Germany, and the European Union is likely to reach significant levels within a reasonably foreseeable time if the antidumping findings on sugar from Belgium, France, and Germany, and the countervailing duty order on sugar from the European Union are revoked.

C. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping findings and countervailing duty order are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.[194]

In its original determination concerning sugar from Belgium, France, and Germany, the Commission found that subject imports undersold the domestic product by an average of 0.42 cent per pound, as a consequence of which Southeast regional producers were unable to sell a substantial portion of their raw sugar at a price equal to or greater than either the loan rate or their cost of production, resulting in forfeitures to the CCC.[195] In the original determination concerning sugar from the European Community, the Commission found that the domestic industry, which it characterized as just starting to recover, would again be threatened with material injury by a large influx of imports from the European Community if the order were revoked.[196]

As discussed above, because sugar is a fungible commodity product, the domestic sugar market remains today as price sensitive as it was at the time of the original determinations. Thus, small differences in price are sufficient to induce purchasers to switch suppliers, as the Commission found in 1979.[197] Due to the minimal volumes of current imports from Belgium, France, Germany and the European Union, as well as the lack of participation in these reviews by EU producers, we were unable to obtain meaningful current pricing or average unit value information on such imports.[198] In any event, our

---

[194] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[195] BFG Original Determination at 4-5.

[196] EU Original Determination at 4, 9.

[197] Hearing Tr. at 28; CR at II-22-II-24, II-26, PR at II-16-II-18.

[198] Chairman Bragg notes that the statute authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record; or (2) an interested party, or any other person, withholds information requested by the agency, or fails to provide such information in the time or in the form or manner requested, or significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences

(continued...)

focus in five-year reviews is on the likely price effects of subject imports if the relevant findings and order were revoked.

Because sugar is a commodity product sold primarily on the basis of price, EU producers would be likely to price their sugar below the prevailing U.S. price in order to induce U.S. refined sugar purchasers to switch from domestic sugar or third country imports to sugar from the EU. Moreover, the EU producers would have an incentive to continue sending their "C" sugar exports to the United States by underselling U.S. producers and third country imports until the additional volume of imports depressed the U.S. price at least to the point that sales of tier II imports no longer earned a net return greater than that on sales in third country markets at the world price. The substantial likely additional supply of sugar from the EU would also lower U.S. prices for all domestic producers, whether or not they actually lost sales volume to the EU product.

Accordingly, we conclude that there is likely to be significant underselling by the subject imports as compared with the domestic like product, and that sugar from Belgium, France, Germany and the European Union is likely to enter the United States at prices that would have a significant depressing or suppressing effect on prices for the domestic like product if the antidumping findings and countervailing duty order are revoked.

D. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the findings and order are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[199] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[200] As instructed by the statute, we have

---

[198] (...continued)
may include selecting from information contained in the record of the Commission's original investigation or any other information placed on the record in a review. *Id.*

Chairman Bragg infers that, in the event of revocation, producers in Belgium, France, and Germany will revert to aggressive pricing practices in connection with exports of subject merchandise to the United States, as evidenced in the Commission's original investigations.

[199] 19 U.S.C. § 1675a(a)(4).

[200] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887. In its final five-year review determinations, Commerce determined that the magnitude of the dumping margins that are likely to prevail if the antidumping findings are revoked are 103 percent for Belgium, 102 for France, and 121 percent for Germany. 64 Fed. Reg. 5638 (Feb. 4, 1999). Although the statute does not expressly define the "magnitude of the net countervailable subsidy" to be used by the Commission in five-year reviews, it
(continued...)

considered the extent to which any improvement in the state of the domestic industry is related to the antidumping findings or countervailing duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.[201]

In its original determination concerning sugar from Belgium, France, and Germany, the Commission found that subject imports displaced domestic sales through underselling, causing domestic producers to build up inventories and suffer financial losses. The Commission further determined that the industry's losses would have been worse but for the ability to forfeit production to the CCC at the loan rate.[202] In its original determination with respect to sugar from the European Community, the Commission found that the domestic industry's production and capacity utilization were beginning to recover, and inventories were declining, but that the industry would be threatened with material injury if the countervailing duty order on sugar from the European Community were revoked.[203]

Given the myriad changes in the U.S. sugar market in the past twenty years, it is difficult to assess whether there has been any improvement in the condition of the domestic industry as a result of the findings and order at issue. As discussed above, however, we find that the domestic industry producing raw and refined sugar is vulnerable to material injury if the antidumping findings and countervailing duty order are revoked. As detailed above, we base this finding on the low operating returns evident in some segments of the domestic industry and the overall lackluster financial performance of the industry as a whole, despite the existence of the U.S. sugar program.[204]

We have found that, if the antidumping findings and countervailing duty order are revoked, substantial volumes of "C" sugar are likely to enter the United States at prices below the current U.S. price, eventually depressing the U.S. price to a significant degree.[205] The combination of lost sales

---

[200] (...continued)
states that "[t]he administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated." 19 U.S.C. §1675a(b)(3). In its final five-year review determination, Commerce determined that the magnitude of the countervailable subsidy that is likely to prevail if the countervailing duty order on sugar from the European Union is revoked is 23.69 cents per pound. 64 Fed. Reg. 49464 (Sept. 13, 1999).

[201] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[202] BFG Original Determination at 4-5.

[203] EU Original Determination at 4, 9.

[204] *See generally* Tables III-B-3a, III-B-3b, III-B-4a, III-B-4b, and III-B-5a, CR at III-B-13-III-B-14, III-B-16-III-B-17, and III-B-19, PR at III-B-7-III-B-8, III-B-11-III-B-13.

[205] A decline in the domestic price of refined sugar of two cents per pound would not bring the U.S. price down to the current loan rate of 22.9 cents per pound for refined beet sugar. Accordingly, we do not find that revocation of the findings and order is likely to trigger widespread forfeitures to the CCC within a reasonably foreseeable time, such as occurred at the time of the original investigations. Thus, there would likely not be a significant cost to the government as a result of the likely volume of future subject imports. However, the existence of a likely burden on a government support program is not necessary to support our affirmative determinations. *See* S. Rep. No. 249, 96th Cong., 1st Sess. at 88
(continued...)

volume and lost per-pound revenue that the domestic industry would suffer under these circumstances would be likely to result in substantial declines in the industry's production, shipments, capacity utilization, employment, profitability, and return on investment. Therefore, we conclude that revocation of the antidumping findings and/or countervailing duty order would be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and likely negative effects on the domestic industry's development and production efforts within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on imports of sugar and syrups from Canada would not be likely to lead to continuation or recurrence of material injury to the U.S. raw and refined sugar industry within a reasonably foreseeable time. We further determine that revocation of the antidumping findings on imports of sugar from Belgium, France, and Germany, and/or the countervailing duty order on imports of sugar from the European Union is likely to lead to continuation or recurrence of material injury to the U.S. raw and refined sugar industry within a reasonably foreseeable time.

[205] (...continued)
(1979) ("Agricultural producers may well be materially injured by reason of subsidized or dumped imports when prices are well above the minimum support level."); Atlantic Sugar, Ltd. v. United States, 519 F. Supp. 916, 922 (Ct. Int'l Trade 1981) (lack of any increased burden on government price-support program "would not necessarily detract from an injury determination which was based on the impact of the imports on the producers themselves").

DISSENTING VIEWS OF COMMISSIONERS CRAWFORD AND ASKEY

Based on the records in these reviews, we determine that revocation of the antidumping duty order on sugar and syrups from Canada is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time; that revocation of the countervailing duty order on sugar from the European Union is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time; and that revocation of the antidumping findings on raw and refined sugar from Belgium, France, and Germany is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. In making our determinations, we join our colleagues in the findings with respect to like product and domestic industry, the relevant legal standard, and the conditions of competition that are distinctive to the domestic industry.[1] We concur in our colleagues' determination with respect to the subject merchandise from Canada and join in that discussion. However, we do not concur in our colleagues' determinations with respect to the order and findings on the European Union and Belgium, France, and Germany. Rather, we find that revocation of the order and findings on the European Union and Belgium, France, and Germany would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. Our dissenting views follow.

I. INTRODUCTION

The sugar industry in the United States currently is protected by a tariff rate quota ("TRQ") for raw and refined sugar that operates in conjunction with a loan program administered by the U.S. Department of Agriculture. Imports under the TRQ enter at very low tariff rates, called tier I tariffs. The TRQ for raw cane sugar is allocated to countries based on historical trade. The TRQ for refined sugar is a first-come, first-served quota in which all countries can participate. However, only 7,815 short tons of refined sugar imports are eligible for entry at these very low tariff rates (1.43 to 1.66 cents per pound).[2] Any imports exceeding the tier I level must enter under tier II, at a much higher tariff. The tier II tariff for refined sugar from Canada and the European Union is 16.69 cents per pound.[3]

In addition to the TRQ, imports of refined sugar from the European Union also are subject to price-based safeguard tariffs.[4] The declared customs import value of the subject merchandise serves as the trigger for imposing a safeguard tariff, which operates on a sliding scale. For example, a refined sugar safeguard tariff of 1.41 cents per pound is triggered when the import price of the subject merchandise falls below 15.88 cents per pound. The tariff increases incrementally to 9.80 cents per pound as the price of the subject merchandise falls to 2.27 cents per pound.

The threshold question in these reviews is whether the TRQ and the safeguard tariffs place an upper limit on imports of the subject merchandise into the U.S. market, thereby rendering the outstanding orders and findings superfluous. We conclude that they do.

---

[1] Commissioner Askey also joins in the majority views on cumulation.

[2] CR and PR at Table I-8. The remainder of the refined sugar TRQ is allocated to Canada and Mexico, or is allocated to specialty sugars, which are not part of these reviews. CR at I-31-33, PR at I-23-24.

[3] CR and PR at Table I-8.

[4] Canadian refined sugar does not face this limitation.

II. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON SUGAR AND SYRUPS FROM CANADA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As noted above, we concur in our colleagues' determination that revocation of the order on the subject merchandise from Canada would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. We therefore join the Commission's views with respect to the Canadian order.

III. REVOCATION OF THE COUNTERVAILING DUTY ORDER ON SUGAR FROM THE EUROPEAN UNION IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME[5]

Even if raw cane sugar and refined cane sugar are both included in the scope of the order on the European Union, almost all of the subject merchandise that would enter the U.S. market from the European Union would be in the form of refined beet sugar.[6] To enter at the low tier I tariff rates, the EU countries therefore must bid for the 7,815 metric tons of imports that are open for bids from any country.[7] Otherwise, all the sugar that enters the United States from the European Union is subject to the tier II tariff of 16.69 cents per pound.[8] In addition, any imports of the subject merchandise from the European Union with an import value lower than 15.88 cents per pound must pay a safeguard tariff.[9]

In light of the high tier II tariffs and safeguard tariffs applicable to the subject merchandise from the European Union, the countervailing duty order is superfluous. No imports of EU refined sugar would enter the United States if the CVD order were revoked because the tier II tariffs and safeguard tariffs do not make it economically rational for the EU producers to sell their refined sugar in the U.S. market.

The market price for sugar in the U.S. in 1999 is approximately 27.00 cents per pound.[10] Thus, for European producers to sell their sugar in the United States, the price (including tariffs) also must be approximately 27.00 cents per pound. EU refined sugar is subject to the tier II tariff rate of 16.69 cents per pound, plus any applicable safeguard tariffs. Thus, the import value of the EU sugar declared to Customs could be no more than 10.31 cents per pound to compete at the U.S. market price.[11] An import value of 10.31 cents per pound would trigger additional, safeguard tariffs of 3.22 cents per pound, which would make EU sugar uncompetitive in the U.S. market.

An importer of EU sugar cannot legally avoid safeguard tariffs and still compete in the U.S. market. The GATT Valuation Code and the customs valuation statute require that the import value be declared by

---

[5] Commissioner Askey cumulated the subject merchandise in Sugar from the European Union and Sugar from Belgium, France, and Germany. The following analysis is equally applicable to the cumulated subject merchandise as it is to Sugar from the European Union alone and explains her decision in all cases.

[6] The European Union does not have significant capacity to produce sugar cane. Nearly all the cane sugar production in the European Union comes from France, which produces approximately 300,000 short tons per year. CR & PR at Table IV-4. This amount is approximately 3 percent of total U.S. domestic consumption of sugar in 1998. CR & PR at Table I-20.

[7] CR at I-32-33, PR at I-24. Any attempt to allocate this amount entirely to one country would be purely arbitrary, and it would be speculative to conclude that the European Union would capture any of this available allocation.

[8] CR & PR at Table I-8.

[9] CR & PR at Table I-10A.

[10] USDA, Sugar and Sweeteners (May 1999) at Table 5.

[11] This import value is derived by subtracting the tier II tariffs from the U.S. market price.

40

reference to transaction value between arms-length parties.[12] This legal requirement prevents an importer from artificially inflating the price of sugar. It is not economically rational for an arms-length purchaser to pay more than the world price for EU sugar. Thus, the declared import value for sugar from the European Union likely would be somewhere between the world price of 9 cents per pound[13] and the market price for sugar in the U.S. minus the tier II tariffs (10.31 cents per pound). Even assuming that an EU importer would set the price most adverse to the domestic industry, nine cents per pound, the safeguard and tier II tariffs would operate to prevent any imports of this merchandise.

An import value of nine cents per pound triggers a 4.35 cents per pound safeguard tariff. Therefore, an importer of sugar from the European Union must pay 21.04 cents per pound in tariffs on imports of the subject merchandise -- a 4.35 cents per pound safeguard tariff and a 16.69 cents per pound tier II import tariff. The seller of EU sugar at the U.S. market price of 27 cents per pound thus would realize a return of only 5.96 cents per pound, over three cents per pound below the nine cents per pound price the sugar would command on the world market. Even the EU producers, who have a surplus of C sugar that they are required to sell, would receive a larger net return if they sold their C sugar in the world market.

An EU importer may legally avoid triggering the safeguard tariff only by pricing its merchandise well above the U.S. market price. To legally avoid safeguard tariffs, the declared customs import value of the EU product must be at least 15.88 cents per pound. When the tier II tariff of 16.69 cents per pound is added onto this import value, the price in the U.S. market for EU sugar would be at least 32.57 cents per pound. The U.S. market will not bear this price, which is nearly six cents per pound greater than the U.S. market price.

Moreover, if the U.S. price of sugar declines, the EU producers would be even less able to compete in the U.S. market. As discussed, to avoid safeguard tariffs the price of EU sugar must be 32.57 cents per pound. Currently, the U.S. market price is 27.00 cents per pound, and thus EU sugar would be priced too high to compete in the U.S. market. If the U.S. price were to drop below 27.00 cents per pound, the importer of EU sugar could not lower its prices because of the tariffs, and the EU sugar would be even less competitive in the U.S. market. As the U.S. market price falls, the EU importer must declare a cheaper import value for its sugar because, in an arms-length transaction, the U.S. market price would set the upper bound on the transaction price. With a lower import value comes a higher safeguard tariff. As a result, the overall tariffs paid would increase, and the EU importers would earn a lower net return on the sale of sugar imports into the U.S. market.

Based on the foregoing, we conclude that if the countervailing duty order on EU sugar is revoked, there will be no increase in the volume of imports of the subject merchandise from the European Union. Because there would be no increase in the volume of the subject imports if the order is revoked, revocation of the order would not be likely to have any negative effects on U.S. prices or any adverse impact on the domestic industry.

We have considered the other statutory factors that we are directed to take into account.[14] However, our consideration of these factors does not alter our determination.[15] Consequently, we determine that

---

[12] 19 U.S.C. § 1401a.

[13] USDA, Sugar and Sweeteners Report (May 1999) at Table 2.

[14] 19 U.S.C. § 1675a(a)(1). We are to take into account the Commission's prior injury determinations, consider whether any improvement in the state of the industry is related to the order, consider whether the industry is vulnerable to material injury in the event of revocation, and consider any duty absorption orders made by Commerce. Id. The statute also provides that the Commission may consider the margin of dumping or the net countervailable subsidy when making its determination, but it must consider the nature of the subsidy in a countervailing duty determination. 19 U.S.C. § 1675a(a)(6).

[15] In this regard, we note that the Department of Commerce has characterized the EU subsidy as an export subsidy but has determined that Articles 3 and 6 of the Subsidies Agreement do not apply to it. However, the nature (continued...)

revocation of the CVD order on imports of sugar from the European Union is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

IV. REVOCATION OF THE ANTIDUMPING DUTY FINDINGS ON SUGAR FROM BELGIUM, FRANCE, AND GERMANY IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME[16]

As is true with revocation of the EU order, the sugar program will prevent any imports of sugar from Belgium, France, and Germany even if the antidumping duty findings on these countries were revoked.[17] Producers in Belgium, France, and Germany likely would not be able to sell their product in the U.S. market because of the tier II and safeguard tariffs.

Almost all imports of sugar from Belgium, France, and Germany would be subject to the tier II and safeguard tariffs because no tier I allocation is available specifically for them. As explained above with respect to the revocation of the EU order, to meet the U.S. market price of 27.00 cents per pound the combined tier II and safeguard tariffs would be 21.04 cents per pound, and the net return to the producers in those countries would be 5.96 cents per pound. Because the world price is nine cents per pound, it would not make economic sense for producers in these countries to sell in the U.S. market. As a result, revoking the antidumping duty findings would not cause an increase in the volume of the subject merchandise from any of these three countries. Also, as in the case of the EU merchandise, producers in these European countries would have no incentive to drive down U.S. prices because, by doing so, their merchandise would be even less competitive with lower U.S. prices.

Based on the foregoing, if the antidumping duty findings on raw and refined sugar from Belgium, France, and Germany are revoked, there will be no increase in the volume of imports of the subject merchandise from any of these countries. Because there would be no increase in the volume of the subject imports from Belgium, France, and Germany if the orders are revoked, revocation of the orders would not be likely to have any negative effects on U.S. prices or any adverse impact on the domestic industry.

We have considered the other statutory factors that we are directed to take into account.[18] However, our consideration of these factors does not have any effect on our determinations. Consequently, we determine that revocation of the antidumping duty findings on imports of raw and refined sugar from Belgium, France, and Germany is not likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

---

[15] (...continued)
of the subsidy does not affect our analysis or our determination.

[16] Commissioner Askey cumulatively considered the effects of sugar from Belgium, France, and Germany with sugar from the European Union; her views as to all imports are set forth in the preceding section. She therefore does not join the analysis in this section.

[17] Commissioner Crawford finds that the subject imports from Belgium, France, and Germany are eligible for cumulation with each other because the scope of the orders in these reviews cover the same subject merchandise. However, as she finds that no subject imports from any of these countries would enter the U.S. market if the orders were revoked, cumulation of these imports is not relevant to her analysis.

[18] 19 U.S.C. § 1675a(a)(1). We are to take into account the Commission's prior injury determinations, consider whether any improvement in the state of the industry is related to the order, consider whether the industry is vulnerable to material injury in the event of revocation, and consider any duty absorption orders made by Commerce. Id. The statute also provides that the Commission may consider the margin of dumping. 19 U.S.C. § 1675a(a)(6).

42

SEPARATE VIEWS OF COMMISSIONER CRAWFORD ON CUMULATION

As noted in the Views of the Commission, I find that only the subject imports from Belgium, France and Germany are eligible for cumulation with each other. In my view, the statutory prerequisite for cumulation is not met in the reviews of the orders covering imports from the European Union and Canada.

The statute establishes a prerequisite that defines what subject imports are eligible for cumulation. The statutory prerequisite requires that the scope of the merchandise subject to the outstanding orders and findings must be the same in each review. Therefore, cumulation of imports subject to orders and findings with different scopes is not permitted simply because the reviews are grouped together - - and thus initiated on the same day - - for administrative efficiency.

In 1994 the statutory provisions governing cumulation in original investigations and sunset reviews were amended.[1] In the context of a sunset review, the statute provides:

> the Commission may cumulatively assess the volume and effect of imports of *the subject merchandise* from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market.[2]

Thus, imports eligible for cumulation are imports of *the subject merchandise*. In turn, subject merchandise is defined as "the class or kind of merchandise that is within *the scope* of . . . a review . . . ."[3] Therefore, it is the class or kind of the merchandise subject to an order that defines eligibility for cumulation. If the scopes of orders covering imports from different countries are the same, then the classes or kinds of merchandise are the same, and imports from the different countries are eligible for cumulation. However, if the scopes of the orders covering imports from different countries are different, then the classes or kinds of merchandise are not the same, and the imports from the different countries are not eligible for cumulation. Consequently, the plain language of these statute requires a conclusion that only imports from countries covered by orders with the same scope are eligible for cumulation.

In amending the statute, Congress chose the definite article "the" (which is used to individualize or particularize a succeeding word) to modify the terms "subject merchandise" and "scope." On the other hand the omission of a definite article or the use of an indefinite article (such as "a") would have given the succeeding word an indefinite distributive force.[4] In other words, "the" denotes particular, singular noun. Consequently, Congress chose language that clearly manifests that there is a prerequisite of a single scope among orders under review before cumulation of the merchandise subject to those orders is permissible.

I recognize that in some circumstances the use of the singular is construed to include the plural. However, such a construction is neither automatic nor without limitations. For example, "*unless the context indicates otherwise* - words importing the singular include and apply to several persons, parties, or things."[5] In addition, the plural may be read to apply to the singular "if that is the intended or reasonably understood

[1] The statutory provisions are the same for original investigations and sunset reviews, and thus the statutory prerequisite for cumulation is the same in original investigations and in sunset reviews.

[2] § 752(a)(7) of the Act, 19 U.S.C. § 1675a(a)(7) (emphasis added).

[3] § 771(25) of the Act, 19 U.S.C. § 1677(25) (emphasis added).

[4] Webster's New International Dictionary (2d Ed.).

[5] 1 U.S.C. § 1 (emphasis added).

meaning and effect."[6] In fact, "discrete applications are favored except where the contrary intent or reasonable understanding is affirmatively indicated."[7]

In my view, there is no basis for ignoring the clear meaning of the statute. Imports from each country are legally entitled to a separate sunset review, and, as a legal matter, each order or finding contains its own separate scope. Thus, the singular, not the plural, is in fact indicated by the context of the statutory provisions governing cumulation in sunset reviews. Therefore, applying the plural to the singular is not the intended or reasonably understood meaning and effect. Furthermore, no contrary intent is affirmatively indicated. Congress amended the cumulation provisions in sunset reviews at the same time the statutory provision permitting the grouping of reviews for administrative efficiency was enacted.[8] However, Congress did not authorize administrative efficiency as a basis for cumulation. Indeed, Congress did not refer to grouped reviews in the context of cumulation or to cumulation in the context of grouped reviews, either in the statute or in the legislative history. Therefore, Congress did not authorize cumulation among orders or findings with different scopes, nor did it indicate anywhere in the legislative history its intention to do so. Consequently, there is no basis to ignore the plain language of the statute, which requires a conclusion that only imports from countries covered by orders with the same scope are eligible for cumulation.

In these grouped reviews, the scope of the order covering imports from Canada differs from the scope of the order covering imports from the European Union, and both of these scopes are different than the scopes of the findings covering imports from Belgium, France and Germany. Therefore, imports from Canada and the European Union are not legally eligible for cumulation with each other or with imports from Belgium, France or Germany. However, the scopes of the findings covering imports from Belgium, France and Germany are the same. Therefore, imports from these three countries are the only imports legally eligible for cumulation with each other.

---

[6] Sutherland Statutory Construction (5th Ed.) § 47.34 at 273-74.

[7] Id. at 274; First Nat'l Bank in St. Louis v. Missouri, 263 U.S. 640, 657 (1924); cf. Ferro Union, Inc. v. United States, 41 F.Supp. 1310, 1326 (CIT 1999).

[8] See § 751(c)(5)(D) of the Act, 19 U.S.C. § 1675(c)(5)(D).

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

The current sunset reviews on sugar result from three investigations involving 16 countries. In the first investigation, *Sugar from the European Union*, the Commission determined that an industry in the United States was threatened with material injury by reason of subsidized imports of sugar[1] from all member countries of the European Union (EU).[2] In the second investigation, *Sugar from Belgium, France, and Germany*, it was determined that an industry in the United States was materially injured by reason of imports of less-than-fair value (LTFV) sugar from three EU member countries. The Commission ruled in the third investigation, *Sugar and Syrups from Canada*, that an industry in the United States was materially injured by reason of LTFV imports of sugar and syrups from Canada. Information relating to the background of the original investigations and reviews is provided below.[3]

Date	***Action***
July 31, 1978	Final Commission determination on *Sugar from the European Union*
May 8, 1979	Final Commission determination on *Sugar from Belgium, France, and Germany*
March 6, 1980	Final Commission determination on *Sugar and Syrups from Canada*
March 28, 1980	Commission receives request from Delegation of the European Union (EU Delegation) for investigation under section 104(b) of the Trade Agreements Act of 1979 on whether revocation of the CVD order on *Sugar from the European Union* would cause material injury or threat of material injury to a U.S. industry
July 8, 1981	*Sugar and Syrups from Canada* remanded to the Commission by the U.S. Customs Court (now the U.S. Court of International Trade)

[1] Sugar and/or syrups are defined by the Department of Commerce (Commerce) as:

(1) For merchandise subject to the countervailing duty (CVD) order on sugar from the EU (investigation No. 104-TAA-7), the product is defined as sugar, with the exception of specialty sugars (e.g., cones, hats, pearls, loaves). Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order.

(2) For merchandise subject to the antidumping (AD) orders on sugar from Belgium, France, and Germany (investigations Nos. AA1921-198-200), the product is defined as sugar, both raw and refined, with the exception of specialty sugars. The order on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) are composed of 85 percent sucrose and 15 percent lactose; (2) have a polished matte appearance, and are more uniformly porous than domestic sugar cubes; and (3) are produced in two sizes of 2 mm and 3.8 mm in diameter.

(3) For merchandise subject to the AD order on sugar and syrups from Canada (investigation No. 731-TA-3), the product is defined as sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar.

[2] The 15 current members of the EU are, in alphabetical order, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. Austria, Finland, Greece, Portugal, Spain, and Sweden were not members of the EU during the original investigation.

[3] Relevant *Federal Register* notices and the explanation of the Commission's determinations on adequacy of the responses to the Commission's notice of institution of these reviews are presented in app. A.

October 5, 1981 . . .	Commission affirms March 6, 1980 determination on *Sugar and Syrups from Canada*
December 28, 1981	*Sugar and Syrups from Canada* remanded for the second time to the Commission by the U.S. Court of International Trade
April 26, 1982	Commission reaffirms March 6, 1980 determination on *Sugar and Syrups from Canada*
May 6, 1982	Commission determines that a U.S. industry would be threatened with material injury if the CVD order on *Sugar from the European Union* were revoked
October 1, 1998 . . .	Commission's notice of institution of the sunset reviews
January 7, 1999 . . .	Commission's notice to parties on full reviews
July 15, 1999	Commission's hearing[4]
February 4, 1999 . .	Commerce's final results of expedited sunset review of *Sugar from Belgium, France, and Germany*
September 3, 1999 .	Commerce's final results of full sunset review of *Sugar and Syrups from Canada*
September 13, 1999	Commerce's final results of full sunset review of *Sugar from the European Union*
September 15, 1999	Commission's votes
September 28, 1999	Commission determinations transmitted to Commerce

STATUTORY CRITERIA

Section 751(c) of the Tariff Act of 1930 requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."[5]

Section 752(a)(1) of the Act states that the Commission "shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account–

> (A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,
> (B) whether any improvement in the state of the industry is related to the order or the suspension agreement,
> (C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and
> (D) in an antidumping proceeding, Commerce's findings regarding duty absorption."

[4] A list of witnesses appearing at the hearing is presented in app. B.

[5] Certain transition rules apply to the scheduling of reviews involving antidumping and countervailing duty orders (such as these) and suspensions of investigations that were in effect prior to January 1, 1995 (the date the WTO Agreement entered into force with respect to the United States). Reviews of these transition orders will be conducted over a three-year transition period running from July 1, 1998 through June 30, 2001. Transition reviews must be completed not later than 18 months after initiation. No transition order may be revoked before January 1, 2000.

I-2

Section 752(a)(2) of the Act states that "[I]n evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including–

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,
(B) existing inventories of the subject merchandise, or likely increases in inventories,
(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and
(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products."

Section 752(a)(3) of the Act states that "[I]n evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether–

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and
(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products."

Section 752(a)(4) of the Act states that "[I]n evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and
(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all [such] relevant economic factors within the context of the business cycle and the conditions of competition that are distinctive to the affected industry."

Section 752(a)(6) of the Act states that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

Information obtained during the course of the reviews that relate to the statutory criteria is contained in this report.

I-3

SUMMARY DATA

A summary of questionnaire data collected in these reviews is presented in appendix C. Table C-1 presents combined data on sugar beet processors and cane sugar refineries;[6] tables C-2, C-2A, and C-2B present data on sugar beet processors; table C-3 presents data on cane sugar refineries; tables C-4A and C-4B present data on sugar cane mills; table C-5 presents data on sugar beet growers; tables C-6A and C-6B present data on sugar cane growers, broken out regionally; and tables C-7A, C-7B, and C-7C estimate consumption based on the scopes, domestic like products, and industries found in the original investigations. U.S. industry data for processors and refineries are based on questionnaire responses of 12 firms that account for approximately 100 percent of U.S. refined sugar production. Available data from the original investigations are presented in tables I-1A, I-2A, and I-3A. Comparative data from the sunset reviews are presented in tables I-1B, I-2B, and I-3B.

Responses by U.S. producers, importers, purchasers, and foreign producers of sugar and/or syrups on the significance of the existing antidumping orders and countervailing duty order and the likely effects of their revocation are presented in appendix D.

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

AD and CVD Margins from Original Investigations and Subsequent Administrative Reviews

In the original investigation on *Sugar from the European Union,* the Department of Treasury ("Treasury") found a CVD margin of 10.80 cents per pound on subject merchandise from all EU sugar producers. Following an affirmative injury determination by the Commission, Treasury imposed a CVD order on July 31, 1978 (See 43 FR 33237 (July 31, 1978)). In the last administrative review of the order, covering January-December 1988, Commerce found a CVD margin equaling 10.45 cents per pound.[7] [8]

In the original investigation on *Sugar from Belgium, France, and Germany*, the AD margins were 103 percent for Belgian producers, 102 percent for French producers and 121 percent for German producers. Following an affirmative injury determination by the Commission, Treasury imposed an AD order on February 12, 1979 (See 44 FR 8949 (February 12, 1979)). Several administrative reviews were

---

[6] Consumption totals found in table C-1 are based on USDA data.

[7] As of January 1, 1980, the Department of Commerce became responsible for calculating CVD and AD margins on imported products.

[8] Between the original order and the 1988 administrative review, Commerce performed three other reviews, covering the periods July 1979-June 1980, July 1980-June 1981, and July 1981-June 1982. The CVD rates found by Commerce for these reviews were 3.50 cents per pound, 7.10 cents per pound, and 10.45 cents per pound, respectively. There were no reviews performed between July 1982 and December 1987, or after December 1988. Any EU entries of subject merchandise were automatically liquidated at 10.45 cents per pound, the rate found in the 1988 review. See 43 FR 33237 (July 31, 1978), 46 FR 46984 (Sept. 23, 1981), 48 FR 35001 (Aug. 2, 1983), 49 FR 45039 (Nov. 14, 1984), and 55 FR 28799 (July 13, 1990).

I-4

Table I-1A
Sugar from the European Union: Data from the 1982 section 104 investigation, 1975-81

(Quantity in short tons, raw value; value in $1,000s)

Item	1975	1976	1977	1978	1979	1980	1981
U.S. consumption:							
Quantity[1]	10,176,189	11,100,636	11,419,058	11,089,385	10,989,772	10,386,572	9,927,575
Importers' share:[2]							
EU	(3)	0.2	0.5	0.8	(3)	(3)	(3)
All other	38.2	41.8	53.3	41.5	45.7	43.3	50.5
Total imports	38.2	42.0	53.8	42.2	45.7	43.3	50.5
U.S. imports[4] from--							
EU[5] (quantity)	57	17,536	51,956	84,592	4	185	34
Other sources(quantity)	3,882,523	4,640,503	6,086,092	4,598,308	5,026,742	4,494,503	5,013,670
All sources (quantity)	3,882,580	4,658,039	6,138,048	4,682,900	5,026,746	4,494,688	5,013,704
U.S. producers:[6]							
Production workers[7]	(8)	(8)	(8)	15,045	14,465	14,616	14,969
Hours worked (1,000s)[9]	(8)	(8)	(8)	31,682	30,776	30,906	31,441
Financial data for sugar beet processors (non-coop):							
Net sales (value)	(8)	(8)	(8)	738,012	848,868	1,163,417	1,579,917
Operating profit/sales[2]	(8)	(8)	(8)	-2.0	2.2	7.2	14.4
Financial data for cane sugar refiners:							
Net sales (value)	(8)	(8)	(8)	1,491,903	1,758,390	2,530,610	3,050,635
Operating profit/sales[2]	(8)	(8)	(8)	3.1	1.5	4.7	5.3

[1] 1981 data were preliminary.
[2] Reported data are in percent.
[3] Less than 0.05 percent.
[4] Imports compiled by the U.S. Department of Agriculture (USDA).
[5] Imports from the EU include imports from all 15 member countries currently comprising the EU, even if some were not members at the time of the original investigations.
[6] Data are based on domestic sugar beet processors and cane sugar refiners.
[7] Production and related workers from U.S. establishments producing refined sugar only.
[8] Not available.
[9] Hours worked from U.S. establishments producing refined sugar only.

Source: Final ITC staff report of section 104 investigation, April 1982.

I-5

Table I-1B
Sugar from the European Union: Data from sunset review, 1997-98 and January-March 1998 and 1999

(Quantity in short tons, raw value; value in $1,000s)

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999
U.S. consumption:				
Quantity	9,578,000	9,684,000	2,233,000	2,208,000
Importers' share:[1]				
EU	(2)	(2)	(2)	(2)
All other	33.3	23.0	17.0	22.8
Total imports	33.3	23.0	17.1	22.8
U.S. imports[3] from--				
EU[4] (quantity)	337	267	117	87
Other sources (quantity)	3,191,008	2,228,602	380,687	502,620
All sources (quantity)	3,191,345	2,228,869	380,804	502,707
U.S. producers:[5]				
Production workers[6 7]	10,826	10,793	9,817	9,593
Hours worked (1,000s)[7 8]	20,920	20,812	5,414	5,141
Financial data for sugar beet processors (non-coop):				
Net sales (value)[7]	1,383,141	1,467,144	363,959	355,128
Operating profit/sales[1 7]	8.1	4.9	6.6	3.5
Financial data for cane sugar refiners:				
Net sales (value)[7]	3,187,169	2,792,531	743,558	683,854
Operating profit/sales[1 7]	4.7	1.2	2.1	2.7

[1] Reported data are in percent.
[2] Less than 0.05 percent.
[3] Imports for consumption as compiled by Commerce.
[4] Imports from the EU include imports from all the 15 member countries currently comprising the EU, even if some were not members at the time of the original investigation.
[5] Data are based on domestic sugar beet processors and cane sugar refiners.
[6] Production and related workers from U.S. establishments producing refined sugar only.
[7] All domestic producers except *** are included. *** did not report the required data.
[8] Hours worked from U.S. establishments producing refined sugar only.

Note: Because of rounding, figures may not add to totals shown.

Source: Data compiled from Commission questionnaires and official statistics of USDA and Commerce.

I-6

Table I-2A
Sugar from Belgium, France, and Germany: Data from the original investigation, 1973-78

(Quantity in short tons, raw value; value in $1,000s)

Item	1973	1974	1975	1976	1977	1978
U.S. consumption:						
Quantity	11,765,311	11,472,252	10,176,189	11,100,636	11,419,058	11,046,212
Importers' share:[1]						
Belgium	0	(2)	0	(2)	(2)	0.2
France	0	0	0	0.1	0.2	0.4
Germany	(2)	(2)	(2)	(2)	0.2	0.1
Other sources	45.3	50.3	38.1	41.8	53.4	41.6
Total imports	45.3	50.3	38.1	42.0	53.8	42.4
U.S. imports[3] from--						
Belgium (quantity)	0	2	0	717	1,690	25,146
France (quantity)	0	0	0	14,275	27,215	42,851
Germany[4] (quantity)	2	5	1	904	19,906	16,539
Other sources (quantity)	5,329,291	5,769,969	3,882,579	4,642,143	6,095,753	4,601,913
All sources (quantity)	5,329,293	5,769,976	3,882,580	4,658,039	6,144,564	4,686,449
Financial data for beet processors:						
Net sales (value)	1,012,477	1,951,782	1,562,280	(5)	(5)	(5)
Net profit/sales[1]	10.7	20.3	15.0	(5)	(5)	(5)
Financial data for sugar cane mills:						
Net sales (value)	529,573	1,408,820	1,091,366	(5)	(5)	(5)
Net profit/sales[1]	23.0	45.5	32.7	(5)	(5)	(5)
Financial data for cane sugar refiners:						
Net sales (value)	1,826,555	3,406,360	2,571,226	(5)	(5)	(5)
Net profit/sales[1]	11.1	12.9	14.3	(5)	(5)	(5)

[1] Reported data are in percent.
[2] Less than 0.05 percent.
[3] Imports for consumption.
[4] In the original investigation, Germany was not yet unified; the data refer to West Germany only.
[5] Not available.

Source: Final ITC staff report of original investigation, May 1979.

I-7

Table I-2B
Sugar from Belgium, France, and Germany: Data from sunset review, 1997-98 and January - March 1998 and 1999

(Quantity in short tons, raw value; value in $1,000s)

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999
U.S. consumption:				
Quantity	9,578,000	9,684,000	2,233,000	2,208,000
Importers' share:[1]				
Belgium	(2)	(2)	(2)	(2)
France	(2)	(2)	(2)	(2)
Germany	(2)	(2)	0	0
All other sources	33.3	23.0	17.0	22.8
Total imports	33.3	23.0	17.1	22.8
U.S. imports[3] from--				
Belgium (quantity)	317	119	71	38
France (quantity)	7	66	43	10
Germany (quantity)	1	9	0	0
All other sources (quantity)	3,191,019	2,228,676	380,690	502,659
All sources (quantity)	3,191,345	2,228,869	380,804	502,707
Financial data for beet processors (non-coop):				
Net sales (value)	1,383,141	1,467,144	363,959	355,128
Net profit/sales[1]	8.8	4.2	5.9	2.4
Financial data for sugar cane mills:				
Net sales (value)	***	***	(4)	(4)
Net profit/sales[1]	***	***	(4)	(4)
Financial data for cane sugar refiners:				
Net sales (value)	3,187,169	2,792,531	743,558	683,854
Net profit/sales[1]	4.2	1.0	2.0	2.9

[1] Reported data are in percent.
[2] Less than 0.05 percent.
[3] Imports for consumption as compiled by Commerce.
[4] Not available.

Note: Because of rounding, figures may not add to totals shown.

Source: Data compiled from Commission questionnaires and official statistics of USDA and Commerce.

Table I-3A
Sugar and syrups from Canada: Data from the original investigation, 1975-78 and January-September 1979

(Quantity in short tons, raw value; value in $1,000s)

Item	1975	1976	1977	1978	Jan.-Sept. 1979
U.S. consumption:					
Quantity	10,176,189	11,100,636	11,419,058	11,089,385	8,258,933
Importers' share:[1]					
Canada	0.4	0.4	1.2	0.9	1.0
All other	37.8	41.6	52.6	41.3	43.2
Total imports	38.2	42.0	53.8	42.2	44.2
U.S. imports[2] from--					
Canada (quantity)	39,990	49,457	138,027	98,144	80,643
Other sources (quantity)	3,842,590	4,608,582	6,000,021	4,584,756	3,567,745
All sources (quantity)	3,882,580	4,658,039	6,138,048	4,682,900	3,648,388
U.S. producers:[3]					
U.S. production (quantity)	8,198,500	8,811,500	8,725,500	8,513,500	8,667,500
Export shipments (quantity)	147,287	67,566	34,959	47,525	52,060
Production workers	15,567	16,328	15,721	15,281	14,680
Hours worked (1,000s)	29,400	31,100	30,200	30,000	27,000
Net sales (value)	(4)	2,358,000	2,001,000	2,208,000	2,486,000
Net profit/sales[5]	(4)	8.59	3.24	-0.37	-0.71

[1] Reported data are in percent.
[2] Compiled from official statistics of USDA as taken from the revised staff report to the Commission in *Sugar and Syrups from Canada*, Feb. 29, 1980.
[3] Data are based on the total domestic refined sugar industry, not the industry as defined by the Commission in the original investigation (refiners in the Northeastern states only).
[4] Not available.
[5] Data for 1979 are actually full-year data.

Source: Final ITC staff report, Feb. 1980.

I-9

Table I-3B
Sugar and syrups from Canada: Data from sunset review, 1997-98 and January-March 1998 and 1999

(Quantity in short tons, raw value; value in $1,000s)

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999
U.S. consumption:				
Quantity	9,578,000	9,684,000	2,233,000	2,208,000
Importers' share:[1]				
Canada	0.1	0.1	0	0.1
All other sources	33.2	22.9	17.1	22.7
Total imports	33.3	23.0	17.1	22.8
U.S. imports[2] from--				
Canada (quantity)	12,731	12,102	0	1,828
All other sources (quantity)	3,178,614	2,216,767	380,804	500,879
Total imports (quantity)	3,191,345	2,228,869	380,804	502,707
U.S. producers:[3]				
U.S. production (quantity)	8,826,959	8,892,535	2,446,107	2,477,057
Export shipments (quantity)	187,945	170,223	41,000	58,000
Production workers	10,826	10,793	9,817	9,593
Hours worked (1,000s)	20,920	20,812	5,414	5,141
Net sales (value)[4]	5,442,074	5,142,513	1,366,775	1,319,394
Net profit/sales[1 5]	5.6	2.1	3.3	2.7

[1] Reported data are in percent.
[2] Imports for consumption as compiled by Commerce.
[3] Data are based on the total domestic refined sugar industry, not the industry as defined by the Commission in the original investigation (refiners in Northeastern states only).
[4] Net sales include data for cane refiners and all beet processors.
[5] Net profit/sales data were calculated using refiners and non-cooperative processors only.

Note: Because of rounding, figures may not add to totals shown.

Source: Data compiled from Commission questionnaires and official statistics of USDA and Commerce.

I-10

performed during the 1980s for *Sugar from Belgium, France, and Germany*; no entries were liquidated and the AD margins did not change.[9]

In the original investigation on *Sugar and Syrups from Canada*, Treasury found AD margins on four Canadian sugar producers/exporters: Lantic Sugar (formerly Atlantic Sugar) at $0.0223 per pound, Redpath Sugars, Ltd. at $0.0237 per pound, St. Lawrence Sugar, Ltd. (which eventually merged with Lantic Sugar) at $0.0237 per pound, and Rogers Sugar (formerly B.C. Sugar) at $0.010105 per pound. Following an affirmative injury determination by the Commission, Commerce imposed an AD order on April 9, 1980 (See 45 FR 24126 (April 9, 1980)). Commerce revoked the AD finding for Redpath Sugars, Ltd. on imports entered on or after July 20, 1984, and with respect to imports from Lantic Sugar, Ltd. entered on or after February 10, 1987. The only producer currently subject to the Canadian AD order is Rogers Sugar, Ltd. Rogers received a zero AD margin during the administrative review covering April 1981-March 1982 and has not been reviewed by Commerce since that time. All subject merchandise produced by Rogers and imported into the United States currently receives a zero AD rate. See appendix E for more information on the history of the AD rates for Canadian sugar.

Commerce's Final Results of Sunset Reviews

The Department of Commerce published final results of its expedited sunset review of *Sugar from Belgium, France, and Germany* on February 4, 1999, in the *Federal Register*. In that determination, Commerce found that revocation of the AD order would likely lead to continuation or recurrence of dumping at the following rates: Belgian sugar exporters, 103 percent; French sugar exporters, 102 percent; and German sugar exporters, 121 percent.[10]

On August 30, 1999, Commerce notified the Commission of the final results of its full sunset reviews of *Sugar from the European Union* and *Sugar and Syrups from Canada*. In its review of *Sugar from the European Union*, Commerce found that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy totaling 23.69 cents per pound on all EU sugar exports to the United States.[11] In its final results on *Sugar and Syrups from Canada*, Commerce found

---

[9] The two Belgian sugar producers listed in the original investigation were Raffinerie Tirlemontoise, S.A. and Societe pour l'Exportation des Sucres. The French sugar producers listed in the original investigation were Ancienne Maison Marcel Bauche S.A., Societe Beghin Say S.A., Societe Jean Lion, General Sucriere, and CIE Commerciale Sucre et Denrees. The German sugar producers listed in the original investigation were Suddeutscher Zucker AG, Pfeifer & Langen, Braunschweiger AG, and August Topfer & Co. There were also two English companies, E.D.& F. Man Ltd. and C. Czarnikow, transshipping through all three subject countries. They were given the same AD rates listed above for each subject country. See 44 FR 8949 (Feb. 12, 1979).

[10] In the final results of its expedited review, Commerce did not recalculate the AD margins. Instead, it was determined that the country-wide weighted-average margins in the original investigations are probative of how producers from the three countries would act if the orders were revoked.

[11] Commerce determined that an average of the marketing year refunds since the implementation of the WTO Agreement on Agriculture, as reported in the EC's substantive response, is an appropriate representation of the net countervailable subsidy likely to prevail if the order were revoked. In this review, the likely subsidy was determined to be the rate established by the record as reflecting recent trends in the level of export refunds (23.69 cents per pound). (See 64 FR 49464, Sept. 13, 1999.)

I-11

that revocation of the AD order is likely to lead to continuation or recurrence of dumping at the following levels: 1.0105 cents per pound for Rogers and 2.37 cents per pound for all others.[12]

NATURE OF THE SUBSIDIES BEING PROVIDED FOR SUGAR FROM THE EUROPEAN UNION

The EU Commission and its Common Agricultural Policy

Sugar pricing and subsidies in the EU are controlled by an intervention board funded under the EU's Guidance and Guarantee Fund of the Common Agricultural Policy (CAP) and are administered by the executive branch of the EU, the Commission of the European Communities (EU Commission). The CAP provides EU-wide price supports and subsidies on many agricultural products. It is designed to boost incomes for farmers and agricultural processors and shield them from price fluctuations on international markets by imposing variable levies on imported goods.

EU Sugar Production Quotas

The EU Commission operates a sugar classification system which attempts to control the amount of sugar produced in EU member countries. Sugar beets produced in the EU are annually designated as part of the "A quota," "B quota," or as "C" sugar.[13] Beets classified under the A quota produce the quantity of sugar expected to meet EU demand in the upcoming year. Beets classified under the B quota are processed to ensure that if actual sugar demand is higher than expected or if the supply of A quota sugar declines due to unforeseen circumstances, sugar stocks and prices will remain stable. Any sugar produced from beets not classified under the A or B quota is classified as C sugar. Quota portions are allocated to individual member countries based on historical production patterns. In any given year, the B quota is set between 10 and 35 percent of the A quota. Sugar under the A quota can either be sold in the EU or exported, but all other sugar, unless needed from the B quota in an emergency, is exported.

Intervention Prices for Sugar and Minimum Prices for Sugar Beets

Guaranteed prices, known as "intervention prices," are set each marketing year (July-June) for both A and B quota sugar. Intervention prices guarantee EU processors a minimum price for raw and refined sugar produced under these quotas. C sugar is given no price guarantee. In addition, the EU Commission sets minimum prices that processors must pay to farmers for sugar beets classified under the A or B quotas. The intervention prices for sugar and the minimum prices for sugar beets during the 1998/99 and 1999/2000 marketing years are shown in table I-4.

Export Restitution Payments

EU sugar producers are given restitution payments from the CAP at the end of a marketing year for the amount of A and B quota sugar exported. These payments are designed to compensate producers

---

[12] Commerce found that the margins calculated in the original investigation are probative of the behavior of Canadian producers/exporters; the original margin for B.C. Sugar (Rogers' predecessor) was 1.0105 cents per pound and the highest of the rates for all others was 2.37 cents per pound. (See 64 FR 48362, Sept. 3, 1999.)

[13] Sugar produced under any of the three categories is completely fungible. The quotas designate sugar beets as "A", "B", or "C" prior to processing.

I-12

Table I-4: Intervention prices for sugar and minimum prices for sugar beets in the EU, marketing years 1998/99 and 1999/2000[1]		
	1998/99	1999/2000
Item	*(Per short ton)*	
Raw sugar intervention price	$613.35	$613.35
Refined (white) sugar derived intervention price[2]		
Non-deficit areas	740.07	740.07
United Kingdom, Ireland, Portugal, and Finland	757.18	757.18
Spain	759.87	759.87
Reimbursement of EU producer's refined sugar storage costs (per month)	4.45	3.86
Minimum price for A quota sugar beets	54.72	54.72
Minimum price for B quota sugar beets	37.97	37.97

[1] Converted to U.S. dollars from ECUs at 1 ECU=$0.85383, the exchange rate in Dec. 1998.
[2] The EU Commission computes separate intervention prices for white sugar in so-called "deficit areas" of the EU. These are areas in which sugar is imported from other EU countries. All other non-member countries are categorized as "non-deficit areas."

Source: European Council Regulation (EC) No. 1361/98, June 26, 1998.

for the difference between the internal price for sugar mandated by the EU Commission and the current world price.[14] No payments are given for C sugar production, and EU producers are forced to pay penalties at the end of a marketing year if they cannot provide evidence that all C sugar was exported.[15] Treasury determined in the original investigation on *Sugar from the European Union* that the EU Commission's restitution payments constituted a countervailable subsidy.[16]

[14] According to a submission by the EU Delegation, the actual refund granted to sugar exporters is fixed on a weekly basis and is the same for all destinations outside the EU. The world price is based on the refined (white) sugar futures price in London or Paris. The EU support price is an intervention price plus a storage levy and a fixed payment to cover transportation costs for bringing the sugar f.o.b. EU port. See May 25, 1999, EU Delegation submission to the Commission, page 2.

[15] See Council Regulation (EEC) No. 2670/81 at Art. 3(1)(1981) (as amended), setting additional levies on producers for all C sugar consumed in the internal market.

[16] See *Sugar from the European Community*, T.D. 78-253, 43 FR 33237 (Final CVD Determination, 1978). Treasury was responsible for calculating CVD and AD margins on imported products prior to January 1, 1980.

I-13

Since marketing year 1995/96, subsidized sugar exports from the EU to third countries have been limited, both in volume and subsidy value, under the GATT Uruguay Round commitments. EU export subsidy commitments through the year 2000/01, together with subsidies for 1995/96 and 1996/97, are shown in table I-5. These commitments do not include subsidies on exports of sugar equal to the EU's preferential imports (approximately 1.6 million metric tons, or 1.76 million short tons, annually).[17] As shown, official EU notifications to the WTO for the 1997/98 marketing year have not yet been made. USDA estimates that actual 1997/98 subsidized exports increased by 400,000-500,000 metric tons (441,000-551,000 short tons) and ECU 200 million to 300 million,[18] based on export licenses awarded during the year.[19]

Table I-5
EU sugar export subsidies: Actual subsidies and commitments under the WTO, marketing years 1995/96 through 2000/01

	Annual commitment	Actual subsidized exports	Annual commitment	Actual subsidized exports
Marketing year	Volume *(1,000 short tons, white sugar equiv.)*		Budget *(Million ECU)*	
1995/96	1,714.7	943.9	733.1	379.0
1996/97	1,652.6	1,323.1	686.3	525.0
1997/98	1,590.3	not yet officially notified	639.5	not yet officially notified
1998/99	1,528.1		592.7	
1999/2000	1,465.9		545.9	
2000/01	1,403.8		499.1	

Source: Schedule CXL: European Communities, Part IV Agricultural Products.

The implication is that the EU has exceeded its annual WTO commitment for that year, both in volume and payments, and has allocated the extra subsidies using unused sugar subsidy commitments from prior marketing years. USDA also estimates that export licenses awarded to EU sugar producers are slightly lower in the first part of 1998/99 than during the same period of the preceding year, but the subsidy level is 17 percent higher. Therefore, USDA concludes that 1998/99 EU subsidy commitments will also be exceeded, which will require the use of non-allocated subsidy commitments from preceding years. If world prices for refined sugar continue to fall and remain at historically low levels, EU export

[17] Preferential imports are from African, Pacific Rim, and Caribbean (ACP) countries under the Lomé Agreement.

[18] ECU, or the European Union currency unit, was the unit of accounting for EU budgets before the introduction of the euro.

[19] FAS, USDA, *EU Sugar Annual Report*, Attache Report No. 29036, Mar. 29, 1999.

I-14

restitution payments are likely to increase. Annual refined sugar prices since 1980 can be found in table I-6.

Table I-6
World refined sugar prices, 1980-99[1]

Year	Price *(Cents per lb.)*
1980	32.30
1981	20.51
1982	11.36
1983	11.40
1984	7.71
1985	6.79
1986	8.47
1987	8.75
1988	12.01
1989	17.16
1990	17.32
1991	13.41
1992	12.39
1993	12.79
1994	15.66
1995	17.99
1996	16.64
1997	14.33
1998	11.59
1999[2]	10.45

[1] The annual world refined sugar prices above are simple averages of the monthly prices from Contract No. 5, London Daily Price for refined sugar, f.o.b. Europe, spot.
[2] 1999 data for the first quarter only.

Source: The London International Financial Futures and Options Exchange.

EU Sugar Production Levies to Repay Export Restitution Payments

Since marketing year 1986/87, EU producers have been responsible as a group for repaying restitution payments made to individual producers. (The only major exceptions are restitution payments

I-15

for exports in quantities equal to preferential imports.)[20] Production levies are charged to recover payment costs. Producers pay a basic production levy on their A and B sugar volumes equal to 2 percent of the intervention price for white sugar and another levy of up to 37.5 percent on their B sugar volume only. Additional levies may also be set if restitution costs are not fully recovered by the EU Commission.

For the 1997/98 marketing year, the EU Commission set the additional B production levy at 36.89 percent of the intervention price, up from 36.53 percent in 1996/97. Because the 1998 beet harvest was abundant and world sugar prices are low (thus necessitating large export subsidy payments), the EU Commission set the B production levy for the 1998/99 marketing year at the maximum level of 37.5 percent.

THE SUBJECT PRODUCT

Definition of the Subject Product

Sugar and/or syrups for the sugar investigations under review are defined by the Department of Commerce as follows:

(1) For merchandise subject to the countervailing duty order on sugar from the EU (investigation No. 104-TAA-7), the product is defined as sugar, with the exception of specialty sugars (e.g., cones, hats, pearls, loaves). Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order. The merchandise is covered by subheadings 1701.11.00, 1701.12.00, 1701.91.20 and 1701.99.00 of the Harmonized Tariff Schedule of the United States (HTS).[21] (Note: The current statistical reporting numbers for 1999 are 1701.11.0500, 1701.11.1000, 1701.11.2000, 1701.11.5000, 1701.12.0500, 1701.12.1000, 1701.12.5000, 1701.91.0500, 1701.91.1000, 1701.91.3000, 1701.99.0500, 1701.99.1000, and 1701.99.5000.)

(2) For merchandise subject to the antidumping findings on sugar from Belgium, France and Germany (investigations Nos. AA 1921-198-200), the product is defined as sugar, both raw and refined, with the exception of specialty sugars. The order on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) are composed of 85 percent sucrose and 15 percent lactose; (2) have a polished matte appearance, and are more uniformly porous than domestic sugar cubes; and (3) are produced in two sizes of 2 mm and 3.8 mm in diameter. The merchandise is covered by subheadings 1701.11.00, 1701.11.01, 1701.11.02, 1701.11.03, 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.00, 1701.12.01, 1701.12.02, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.20, 1701.91.21, 1701.91.22, 1701.91.30, 1701.99.00, 1701.99.01, 1701.99.02, 1701.99.05, 1701.99.10, 1701.99.50, 1702.90.05, 1702.90.10, 1702.90.20, 1702.90.30, 1702.90.31, 1702.90.32, 2106.90.11, 2106.90.12, 2106.90.42, 2106.90.44, and 2106.90.46 of the HTS.[22] (Note: This list includes all applicable HTS subheadings for sugar before and after the subheadings were changed in 1995.)

---

[20] The Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) provides export subsidies for a quantity of sugar equal to the EU's preferential imports from ACP countries. Such subsidy payments amount to about ECU 600 million annually and are not refunded by sugar producers.

[21] See Commerce's *Final Results of Full Sunset Review: Sugar from the European Union*, 64 FR 49464 (Sept. 13, 1999).

[22] See Commerce's *Final Results of Expedited Sunset Review: Sugar from Belgium, France, and Germany*, 64 FR 5638 (Feb. 4, 1999).

I-16

(3) For merchandise subject to the antidumping order on sugar and syrups from Canada (investigation No. 731-TA-3), the product is defined as sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing,[23] or liquid sugar, as covered by statistical reporting numbers 1701.99.0500, 1701.99.1000, 1701.99.5000, 1702.90.1000, and 1702.90.2000 of the HTS.[24]

The subject product is defined using the product scopes of the original investigations. These scopes have been modified by several rulings from Treasury and Commerce since the original AD and CVD findings were made, starting in 1978. This section presents information on both imported and domestically produced sugar and syrups, as well as information related to the Commission's "domestic like product" determination.[25]

Description and Uses

The primary products covered under the original orders are raw sugar, refined sugar, liquid sugar, and invert syrup. The sugar found in each of these products is chemically classified as sucrose, a carbohydrate that occurs naturally in fruits and vegetables. Sucrose is found in quantities large enough for commercial extraction in the stalk of sugar cane, a perennial subtropical grass, and in the white root of a sugar beet, an annual vegetable which grows in more temperate climates. Sugar beets are usually grown in rotation with other crops to avoid disease and pest problems which occur when two beet crops are grown successively in the same field.

Sugar cane (approximately 11 percent sugar by weight)[26] is initially cut and milled to obtain sugar juice. Through a process of filtering, evaporating, and centrifuging this juice, raw sugar is produced, which consists of large sucrose crystals coated with molasses. This intermediate product is normally 90-99 percent pure sucrose[27] and is the principal "sugar" shipped in world trade. Raw sugar is not sold to U.S. consumers because the Food and Drug Administration considers it unsuitable for use either as food or as an intermediate food ingredient due to the high level of impurities it contains. Consequently, raw sugar is sold only to refineries, which further process the sugar through additional melting, filtering, evaporating, and centrifuging to extract most of the remaining impurities and leave what is called refined sugar (>99.9 percent pure sucrose).

Like sugar cane, sugar beets (approximately 17 percent sugar by weight)[28] are also initially processed to obtain sugar juice. Beets grown in the United States are converted directly into refined sugar without shipping raw sugar to a separate facility. In some countries, however, sugar beets are used to produce an intermediate product known as "raw beet" sugar, which is not fully refined and contains

[23] The scope of the order for *Sugar and Syrups from Canada* excludes icing sugar decorations as determined in the U.S. Customs Classification of Jan. 31, 1983.

[24] See Commerce's *Final Results of Full Sunset Review: Sugar and Syrups from Canada*, 64 FR 48362 (Sept. 3, 1999).

[25] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

[26] Information on the sugar content of cane was obtained from the Sugar Cane Growers Cooperative of Florida.

[27] Purity of sugar is described in "degrees." For example, 95 percent pure raw sugar would be described as "95 degree" sugar.

[28] Information on the composition of beets was obtained from Monitor Sugar Company. In addition to sugar, beets are approximately 75 percent water, 3 percent soluble materials, and 5 percent pulp.

I-17

90-99 percent sucrose. Fully-processed sugars from cane and beets are indistinguishable from each other; purchasers buy and use both for the same end uses.

The primary use of sugar in the United States is human consumption, as a caloric sweetening agent in food. Among the various applications are bakery products, cereals, confections, sauces, meat curing, dairy and ice cream applications, and sales directly to consumers. Most sugar is sold as pure granulated or powdered sucrose. Substantial quantities also reach consumers as liquid sugar (sugar dissolved in water), in forms not chemically pure, such as brown sugar[29] and invert sugar syrups, or as sugar blends with glucose or fructose. In the United States, about one-third of the sugar is consumed by households and institutional users, while two-thirds are consumed by industrial users, which use it to sweeten processed foods.

Manufacturing Process

Although converting sugar beets into refined sugar is a continuous process performed in one facility, the basic manufacturing steps are similar to the combined operations of milling sugar cane and refining raw cane sugar into a final product. A description of each type of manufacturing process follows.

Sugar Cane Mill

Raw sugar is extracted from sugar cane through a process whereby the cane is sliced into pulp, water is added, and sugar juice is extracted. The leftover pulp ("bagasse") is sometimes used as fuel to power the mill. The sugar juice is then "clarified" by adding calcium hydroxide ("lime") and carbon dioxide, which trap solid impurities, and allowing these solids to settle out of the solution. The sugar is then crystalized and placed into evaporators and high-speed rotating centrifuges, where extra water is evaporated and the sugar is separated from blackstrap molasses (a byproduct sold as animal feed). The final raw sugar product has a characteristic amber color and is sold or transferred to cane refineries for further processing.

Cane Sugar Refinery

In the first step of the refining process, raw sugar is combined with a solution of molasses and water called "affination syrup." This mixture, called "magma," is placed in high-speed rotating centrifuges which separate some of the remaining impurities from raw sugar crystals. The crystals are then melted, run through mesh strainers, and separated from microscopic impurities in a process called "carbonatation."[30] Now referred to as "liquor," the sugar solution is passed through "sweetland presses"[31] and filtered through granular bits of char which absorb most of the remaining impurities. The final processing steps re-crystallize the sugar and evaporate any excess water, leaving the sugar crystals dry enough to be sorted, packaged, and stored for shipment to customers.

---

[29] Brown sugar is normally produced by adding molasses to sugar fit for human consumption.

[30] Carbonatation adds a dilute solution of lime to the sugar solution and carbon dioxide is bubbled through the resulting solution. The result is that calcium carbonate crystals form, trapping impurities so that they can be identified and filtered out.

[31] Sweetland presses are a series of cloth filters on round metal frames. The carbonatated liquor is passed through them, and solid particles are trapped and removed.

I-18

Sugar Beet Processor

Unlike sugar cane, sugar beets are processed and sugar is refined in a continuous process within the same manufacturing facility. The beets are first sliced into thin strips called "cossettes," and hot water is added to remove the sucrose and create "raw juice." Any leftover sugar beet pulp is pressed into pellets and sold as livestock feed. The sugar juice is then mixed with lime and carbon dioxide to trap solid impurities and remove them from the solution. Excess water is removed by evaporators, and the sugar is crystallized and separated from the rest of the solution, called molasses, by centrifuges. Molasses is sold to manufacturers for making lysine, baker's yeast, and other products. At the end of the process, the sugar crystals are dried, cooled, and sorted for packaging according to crystal size.

DOMESTIC LIKE PRODUCT ISSUES

Table I-7 presents the Commission's domestic like product definitions found in the original sugar investigations. There were no like product issues addressed in the Commission's views for any of these investigations. The domestic industry has asserted during the sunset reviews that industry consolidation and vertical integration have created a national market for sugar and syrups. In addition, the domestic industry argues that raw cane sugar, refined cane sugar, and refined beet sugar are a single like product.[32] In light of these assertions, counsel for the domestic industry recommends that the Commission adopt a single domestic like product for these reviews that encompasses the broadest definition permitted under any of the original orders, defining it as "beet and cane sugar, whether raw or refined."[33] Counsel for Canadian sugar producers recommends that the domestic like product in the review on *Sugar and Syrups from Canada* should be limited to "refined sugar," as defined in the original investigation.[34]

In response to party comments, the questionnaires were designed to collect domestic industry data for all beet and cane sugar. However, to abide by statutory requirements and allow some flexibility for analysis by the Commission, the questionnaires explicitly requested import data based on Commerce's scope determinations for the most recent administrative reviews. In addition, due to concerns expressed by domestic producers in party comments, the importers' questionnaire specifically requested information on "stuffed molasses," which is used to transport sugar in liquid form.[35] Questionnaire comments are summarized below, where appropriate, followed by information related to alternative sweeteners and channels of distribution. Available information on prices is presented in Part V, Pricing and Related Information.

---

[32] See July 28, 1999, consolidated responses to Commissioner and ITC staff questions by the domestic industry, pp. 5-12.

[33] See Nov. 5, 1998, substantive response of the domestic industry, p. 49.

[34] See July 27, 1999, posthearing brief of the Canadian Sugar Institute, p. 25.

[35] Stuffed molasses is high polarity raw cane sugar melted and mixed with molasses so that the non-sugar solids are at least 6 percent of the total weight. None of the responding importers reported importing "stuffed molasses" at any time since July 31, 1978. In its posthearing response, counsel for Canadian producers stated that stuffed molasses is being produced by Canadian Blending Co. in Windsor, Ontario, Canada. Canadian Blending is owned by ED&F Mann, a European company. As currently produced, stuffed molasses is not considered to be a Canadian product by U.S. Customs because it is made from raw cane sugar imported into Canada. Canadian counsel contends that stuffed molasses is refined in Michigan by Heartland Industries and sold into the U.S. liquid sucrose market to coat breakfast cereals. They further contend that, irrespective of its country of origin, stuffed molasses is not subject to the scope of the antidumping order on Canadian sugar. See July 27, 1999, posthearing brief from Rogers Sugar, Ltd. and the Canadian Sugar Institute, pp. 28-30.

Table I-7
Domestic like product and domestic industry determinations from the original Commission investigations

Investigation	Domestic like product	Domestic industry
Sugar from the European Union	Beet and cane sugar	Growers, processors, and refiners of beet and cane sugar
Sugar from Belgium, France, and Germany	Sugar cane and raw cane sugar	Producers of sugar cane and raw cane sugar in the southeastern United States
Sugar and syrups from Canada	Refined sugar	Producers of refined sugar in the northeastern United States

Source: ITC final section 104 determination for *Sugar from the European Union*, May 1982; ITC final determination for *Sugar from Belgium, France, and Germany*, May 1979; and ITC final determination for *Sugar and Syrups from Canada*, Mar. 1980.

Domestic Industry Determinations

Table I-7 also presents the Commission's domestic industry definitions found in the original investigations. In the original AD determinations for *Sugar from Belgium, France, and Germany*, the Commission found that the U.S. industry consisted of "the facilities for the production of sugar cane and raw sugar cane in the Southeastern region of the United States, that is, Florida sugar cane and raw sugar cane producers."[36] The Commission added that the region also consisted of the area served by Florida producers, including the states of Florida and Georgia, where major refining capacity was located. In its original CVD determination for *Sugar from the European Union,* the Commission found that the U.S. industry consisted of all growers, processors, and refiners of beet and cane sugar.

In the original AD determination for *Sugar and Syrups from Canada*, the Commission found that the U.S. industry consisted of facilities producing refined sugar located in the northeastern states region. The Commission noted that the region included Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. However, in a ruling made subsequent to the original Canadian investigation, Customs effectively limited the range of imports that could be considered Canadian product to sugar made from beets, and imports from Canada shifted from the northeastern United States to midwestern and western ports, closer to where Canadian sugar beets are grown.[37]

---

[36] Commission's Statement of Reasons for the final determination on *Sugar from Belgium, France, and Germany*, May 9, 1979.

[37] Customs ruled in 1987 that refining raw cane sugar is not substantial transformation of the sugar for establishing country of origin. Therefore, raw cane sugar imported into Canada and refined in Canada is not considered to be Canadian product. Because Canada does not mill cane into raw sugar, any refined cane sugar shipped from Canada would be subject to U.S. import tariffs, TRQs, safeguard provisions and other trade restrictions levied against sugar from the actual country of origin. This ruling was issued prior to the former U.S.-Canada Free Trade Agreement and its successor, the NAFTA. These agreements provide specific rules for

(continued...)

I-20

Counsel representing the domestic industry has asserted that the Commission should adopt the broadest possible industry definition for all of the sugar reviews, to include growers, processors, and refiners of beet and cane sugar.[38] They argue for a broad definition because the U.S. industry has undergone consolidation through mergers and marketing agreements. For the review on *Sugar and Syrups from Canada*, counsel for Canadian sugar producers has asked the Commission to limit the domestic industry to refiners (as determined in the original investigation).[39] Canadian counsel did not specifically request that the Commission find a national industry for sugar; rather, she argued only that the facts surrounding the original finding of a regional industry no longer apply.[40] Based on party comments, the changed country of origin requirements for Canadian sugar, and the consolidation currently facing the U.S. industry, the Commission did not seek data on a regional basis.

Interchangeability

Imported sugar is chemically indistinguishable from sugar produced in the United States, and the two are used interchangeably. Domestic processors and refiners are not aware of any quality issues that would prevent end users from substituting U.S. sugar with imported sugar from either subject or non-subject countries.

Sugar from Canada and the EU is produced to the same specifications as domestically-produced sugar. Much of this stems from the fact that U.S., EU, and Canadian food manufacturers have standard specifications for sugar used in food processing. *** did note, though, that ***.

Only one importer not affiliated with domestic producers answered the question of interchangeability. *** stated that sugar from subject countries is generally used interchangeably with domestically-produced sugar. However, ***.

Common Manufacturing Facilities and Production Employees

None of the domestic sugar beet processors or cane sugar refiners reported being able to produce products other than refined sugar in their manufacturing facilities. Certain by-products created in the sugar production process, such as blackstrap molasses and sugar beet pulp, are sold on the open market, but they are all incidental to the sugar production process.

Alternative Sweeteners

There are several sweetener alternatives to sugar in the marketplace. None of these alternatives has all the characteristics of sugar, but for certain uses, each has some advantages. They include corn-based sweeteners, glucose or glucose syrup, dextrose, honey, maple sugar, maple syrups, and several low calorie or high intensity sweeteners such as aspartame, cyclamates, acesulfame K, and saccharine. The most widely used are corn-based sweeteners, such as high-fructose corn syrup (HFCS). HFCS is produced by the enzymatic conversion of glucose found in corn syrups to fructose. It is roughly comparable to invert syrup ("liquid sugar" made from sucrose) in its sweetness and physical properties. HFCS is sold containing 42 percent fructose (HFCS-42), 55 percent fructose (HFCS-55), and 80-90 percent fructose (HFCS-80-90). At room temperature, HFCS is a liquid and is used to sweeten beverages, some baking products, and ice cream. HFCS-55 was developed in the early 1980s and was

---

[37] (...continued)
qualifying goods for tariff preferences; those for the NAFTA are contained in HTS general note 12(t).

[38] This is the domestic industry definition used by the Commission in *Sugar from the European Union.*

[39] See July 27, 1999, posthearing brief of Rogers Sugar, Ltd. and the Canadian Sugar Institute, p. 25.

[40] See November 20, 1998, substantive response of Rogers Sugar, Ltd., p. 21.

sold at prices below those for sugar. Sales of corn sweeteners have grown from 4.1 million short tons in 1979 to approximately 11.7 million short tons in 1997. HFCS accounted for nearly all of that increase, rising from 1.7 million short tons in 1979 to 8.4 million short tons in 1997.[41] Today, HFCS has almost completely captured the soft-drink market and is typically priced at more than 10 percent below the price for sugar. None of the parties in these proceedings has asked that any of the alternative sweeteners be included in the like product determinations.

Channels of Distribution

U.S. processors and refiners and U.S. importers reported the channels of distribution for sugar to distributors, industrial end users, and retail end users in 1998. The majority of U.S. shipments from processors and refiners (67.1 percent) went to industrial end users such as food manufacturers, while 11.5 percent went to distributors and the remainder (21.4 percent) went to retail end users, such as grocery stores. For those importers reporting data, a similar data distribution occurred. The majority of U.S. importers' shipments (57.5 percent) went to industrial end users, 6.3 percent went to distributors, and 36.3 percent went to retail end users. The only importer reporting subject imports from Canada, Rogers Sugar, stated that ***. It should be noted that refined cane and beet sugar are sold in the same channels of distribution. Raw cane sugar, due to its higher level of impurities, is sold only to refineries and does not enter the marketplace through any of the above channels.

U.S. SUGAR PROGRAM

History of U.S. Sugar Programs

The U.S. Government has played an active role in the domestic sugar industry for many years. The primary purpose of government intervention has always been to maintain stable prices for consumers and boost incomes for farmers. The first price-support legislation for the U.S. sugar industry, called the Jones-Costigan Act, was instituted in 1934 and set quotas on domestic production and foreign imports based on estimated U.S. demand for the upcoming year. In the 1970s, inflation forced the demise of the "sugar program," as sugar prices increased quickly and the legislated tools did very little to bring prices back down to historic levels. By November 1974, world raw sugar prices reached 57 cents per pound, and the Sugar Act was abandoned on January 1, 1975. With the Sugar Act's repeal, the Secretary of Agriculture lost the authority to set domestic sugar quotas; import quotas, acreage allotments, and direct payment to farmers were eliminated.

Three years later, due to increased production in world markets, sugar prices declined to an average of 8.1 cents per pound. To counteract the decline and lessen the impact on U.S. farmers, Congress intervened in the market once again, passing the Food and Agriculture Act (FAA) in 1977. The FAA established a loan or purchase program in which cane millers and beet processors could receive loans for every pound of sugar produced. The loans could be defaulted, and any sugar collateral given to the Government, if the market price was not higher than the loan amount. In 1982, after a hiatus of 7 years, Congress also re-established quotas on imports.

U.S. Sugar Program, 1996-2002

Under Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (the "Fair Act"), funded through fiscal year 2002, the U.S. sugar program continues to grant loans to domestic producers. Loans are administered by the Commodity Credit Corporation (CCC) of USDA, and credits

---

[41] 1999 Corn Annual, Corn Refiners Association, Inc., p. 13.

("rates") average 18 cents per pound for raw cane sugar and 22.9 cents per pound for refined beet sugar. (Loan rates are higher for refined beet sugar primarily because raw cane sugar is an intermediate food product requiring further processing by refiners.) These rates cannot be increased but can be reduced by administrative action if domestic and export subsidies are reduced by the EU and 10 other sugar-producing countries.

Sugar loans can be either "recourse" or "nonrecourse" credits. A nonrecourse loan requires the processor receiving it to make minimum payments for sugar cane or sugar beets delivered and pay a penalty if the processor forfeits the loan collateral to the CCC. Conversely, a recourse loan requires no minimum payments to growers and no penalty for forfeiture; however, the processor remains liable for any losses the CCC incurs selling the forfeited sugar. The CCC grants recourse loans to U.S. sugar mills and sugar beet processors unless the tariff-rate quota (TRQ) trigger level for U.S. imports of sugar is increased to, or exceeds, 1.5 million short tons, raw value.[42] When this occurs, nonrecourse loans are made available and all recourse loans made during the fiscal year are converted to nonrecourse loans. Prior to 1996, the sugar program was designed to operate at "no net cost" to the Federal Government; the Secretary of Agriculture set TRQs at levels which kept U.S. sugar prices above the loan rates to discourage loan defaults. The Fair Act did not renew the no-net-cost provision of the sugar program.

Tariff-Rate Quotas on U.S. Imports

U.S. imports of sugar and syrups are currently regulated through a system of tariff-rate quotas (TRQs) which were reauthorized in the Fair Act through fiscal year 2002.[43] The TRQs came into existence in October 1990 in response to a GATT ruling against the U.S. sugar quota system which was in effect at that time. Pursuant to market access commitments under the Uruguay Round agreements, the United States is required to annually import not less than 1,117,195 metric tons (1,231,484 short tons) of raw cane sugar and not less than 22,000 metric tons (24,251 short tons) of other sugars (including all refined sugar and raw beet sugar), syrups, and molasses at lower ("in-quota") duty rates. Sugar imported under the refined sugar TRQ can be produced from either sugar beets or sugar cane. The U.S. Trade Representative allocates the entire raw cane sugar TRQ on a country-by-country basis, while the refined sugar TRQ is partially allocated on a global first-come, first-served basis.[44] (See appendix F.) In the quota year beginning October 1, 1998, the raw cane sugar TRQ is 1,139,937 metric tons (1,256,553 short tons), and the refined sugar TRQ is 50,000 metric tons (55,115 short tons), including 4,656 metric tons (5,132 short tons) reserved for specialty sugar.[45]

Raw Cane Sugar

Canada and the European Union are not allocated any of the raw cane sugar TRQ. Raw cane sugar imports under the TRQ are assessed in-quota rates of 0.63 cent per pound, except for imports from Mexico, which receive duty-free treatment under NAFTA, and imports from countries receiving duty-

---

[42] "Raw value" is defined as 96 degrees on a polariscope, or 96 percent pure sucrose. When sugar cane mills sell to refineries, raw sugar is normally priced at 96 degrees and a price premium is given on a graduated scale for raw sugar up to 98.5 degrees.

[43] Additional U.S. note 5(a)(i) to chapter 17 of the Harmonized Tariff Schedule provides for separate TRQs for imports of raw cane sugar and for imports of certain other sugars, syrups, and molasses. Schedule XX to the Marrakesh Protocol set minimum in-quota quantity commitments; however, USDA can adjust the figure upward in certain circumstances. Such an adjustment allows a higher volume to enter at the lower in-quota duty rate.

[44] See 63 FR 53971 (Oct. 7, 1998).

[45] Refined sugar is defined by USDA as "sugar of which the sucrose by weight, in the dry state, corresponds to a polarimeter reading of 99.5 degrees or more" and specialty sugar is refined sugar that meets specifications determined by U.S. Customs.

I-23

free treatment under U.S. trade programs such as GSP and CBERA. Raw cane sugar imports falling outside the quota are subject to a "tier II" tariff equal to 15.82 cents per pound in 1999, which will decline to 15.36 cents per pound in 2000. See table I-8. In-quota (tier I) tariff rates and over-quota (tier II) tariff rates are not cumulative. Sugar imports are either subject to the tier I rate or the tier II rate, as the HTS has separate subheadings for each tier.

Refined Sugar (Including Raw Beet Sugar)[46]

The combined TRQ for refined sugar (including raw beet sugar) is 55,115 short tons, which includes 5,132 short tons reserved for specialty sugar not subject to these reviews. Of the remaining 49,984 short tons, 7,815 short tons is allocated on a first come, first served basis. All sugar-producing countries are eligible to import under this portion of the TRQ, and therefore, any one country could *potentially* import 7,815 short tons at the in-quota rate. (If this occurred, the first come, first served portion would not be available to other countries.) The United States has given Canada a separate 11,354 short ton portion of the refined sugar TRQ. Therefore, Canada has potential in-quota imports of 19,169 short tons (11,354 plus 7,815 short tons from the first come, first served global portion of the TRQ).[47] Imports of sugar under Canada's separate refined sugar TRQ must be produced from sugar beets or sugar cane processed in Canada.[48] Mexico has been granted two portions of the refined sugar TRQ. The first, totaling 27,558 short tons, can be used to import either raw cane sugar or refined sugar. The second, totaling 3,256 short tons, must be used to import refined sugar. Therefore, Mexico has potential in-quota imports of 38,629 short tons (27,558 plus 3,256 plus 7,815 short tons from the first come, first served global portion of the TRQ). All other countries (including members of the European Union) have access to the in-quota refined sugar tariff rate only for 7,815 short tons (the first come, first served portion of the TRQ). Note that the refined sugar TRQ also applies to any imports of raw beet sugar. Table I-9 lists the potential and actual imports from the EU, Canada, and Mexico under the TRQs for fiscal years 1996/97 through 1998/99.

Canada and Mexico have duty-free access to the United States for in-quota (tier I) imports of refined sugar. All other countries, including the European Union, have tariff rates ranging from 1.43 to 1.66 cents per pound, depending on the polarity of the sugar being imported. For over-quota (tier II) imports, all countries except Mexico are levied a tariff equal to 16.69 cents per pound. Mexico's tariff ranges from 9.32 to 14.41 cents per pound, depending on the polarity of the sugar being imported. (See table I-8.) The Mexican rate is being reduced in annual stages to a rate of "free" in 2008.

Safeguards

On January 1, 1995, the Uruguay Round Agreement ("Agreement") on Agriculture took effect. Article 5 of the Agreement allows safeguard duties to be imposed on certain agricultural imports, in addition to tariff levels negotiated during the Uruguay Round, if certain conditions ("triggers") are met. Additional duties may be charged if (1) the price of an individual shipment of the imported product falls below the average price for similar goods imported during the years 1986-88 by a specific percentage or

[46] Includes raw beet sugar and sugars, syrups, and molasses imported under HTS subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44.

[47] Trade in sugar between the United States and Canada is duty free in accordance with the NAFTA agreement.

[48] Canada does not grow sugar cane but does grow sugar beets. Under general note 12(t), if Canada grows and processes sugar beets, the refined sugar is eligible for a NAFTA tariff preference; if it merely refines imported beets, the product is still eligible (gen. note 12(t)/17.1). If no claim for NAFTA preference is made, general rates of duty are applied.

Table I-8: Sugar tariff rates for subject countries and Mexico in-quota (tier I), over-quota (tier II), and under safeguard provisions in fiscal year 1998/99

(Cents per pound)

Item	In-quota rate[1] (tier I)	Over-quota rate (tier II)	Rate under price safeguards	Rate under quantity safeguards (not in effect)
Countries other than Canada and Mexico (including members of the European Union):				
Raw cane sugar[2 3]	0.63 cent per lb.	15.82 cents per lb.	Ranging from 0.0 to 5.85 cents per lb.	5.26 cents per lb.
Raw beet sugar and refined sugar	Ranging from 1.43 to 1.66 cents per lb.	16.69 cents per lb.	Ranging from 0.0 to 9.80 cents per lb.	5.58 cents per lb.
Canada:				
Raw cane sugar[4]	Free	15.82 cents per lb.	Does not apply.	Does not apply.
Raw beet sugar and refined sugar[5 6]	Free	16.69 cents per lb.	Does not apply.	Does not apply.
Mexico:				
Raw cane sugar	Free	13.60 cents per lb.	Does not apply.	Does not apply.
Raw beet sugar and refined sugar	Free	Ranging from 9.32 to 14.41 cents per lb.	Does not apply.	Does not apply.

[1] Ranges for the in-quota sugar tariff rates are calculated as follows: (1) raw cane sugar imports are charged a tariff equal to 0.6625238 cent per lb., less 0.0093749 cent per lb. for each degree under 100 degrees, but not less than 0.4281294 cent per lb. (because raw cane sugar imports are converted to a 96 degree raw value basis by Customs, the in-quota rate is calculated on that basis in the table above); and (2) raw beet and all refined sugar imports are charged a tariff equal to 1.6604373 cents per lb., less 0.0093749 cents per lb. for each degree under 100 degrees, but not less than 1.4260428 cents per lb.
[2] According to data from the U.S. Mission to the EU, France produces nearly all of the raw cane sugar produced in the EU. Raw cane sugar production accounts for approximately 1.4 percent of total EU sugar production, or 291,000 short tons in the 1998/99 marketing year. Approximately 50 short tons of raw cane sugar were shipped to the United States in 1998 from the EU.
[3] Some of the countries receiving separate quota allocations under the raw cane sugar TRQ also receive duty-free tariff treatment under one of the U.S. trade programs, such as GSP or CBERA.
[4] Canada does not produce raw cane sugar. Raw cane sugar imported into Canada and transhipped to the United States is not considered to be Canadian product by U.S. Customs.
[5] Only beet sugar refined in Canada is considered to be Canadian product by U.S. Customs. Raw cane sugar imported into Canada and refined there still retains a country of origin where the raw cane sugar was milled from sugar cane. Sugar refined in Canada from imported raw cane sugar is subject to safeguard duties when the trigger quantity or trigger price is reached, as are all refined sugar imports except those originating from Canada or Mexico under the NAFTA agreement.
[6] The over-quota tariff rate for imports of Canadian refined sugar will decline to 16.2 cents per lb. in 2000 and is not scheduled under the Uruguay Round concessions to be further reduced.

Note: Fiscal year is from October to September.

Source: Compiled from 1999 Harmonized Tariff Schedule of the United States.

I-25

Table I-9: Total potential and actual in-quota imports under the U.S. tariff rate quotas (TRQs) on sugar, fiscal years 1996/97-1998/99

(Short tons, raw value)						
	1996/97		1997/98		1998/99	
Item	Potential[1 2]	Actual	Potential[1 2]	Actual	Potential[1 2]	Actual[3]
European Union						
Raw cane sugar	0	0	0	0	0	0
Refined sugar[4]	22,425	[5]	7,815	[5]	7,815	[5]
Canada						
Raw cane sugar	0	0	0	0	0	0
Refined sugar[6 7]	22,425	[5]	19,169	10,495	19,169	10,527
Mexico						
Raw cane sugar and refined sugar[8 9]	49,983	26,336	38,629	30,814	38,629	2,073

[1] Note that because the EU, Canada, and Mexico compete for the same import quantities under the global first come, first served refined sugar TRQ, potential TRQ quantities for the three countries are not additive.
[2] During fiscal year 1996/97, Mexico's total potential TRQ for sugar was 27,558 short tons, which could be raw cane sugar or refined sugar, and 22,425 short tons from the first come, first served global TRQ for refined sugar. Canada's total potential TRQ for refined sugar was 22,425 short tons from the first come, first served global TRQ. During fiscal years 1997/98 and 1998/99, Mexico's total potential imports declined by 11,354 short tons because Canada was given that amount of the first come, first served global TRQ for refined sugar as a separate TRQ. Canada's total potential imports declined by 3,256 short tons because Mexico was given that amount of the first come, first served global TRQ for refined sugar as a separate TRQ, and the EU's total potential imports declined by 14,610 short tons because of the amounts given to Mexico and Canada.
[3] Actual imports under the 10/98-9/99 TRQs are for the period October 1998 through mid-May 1999.
[4] The EU does not have a separate TRQ for refined sugar. EU member countries can compete for the first come, first served global TRQ for refined sugar.
[5] Sugar imports under the global first come, first served TRQ are unknown.
[6] During fiscal years 1997/98 and 1998/99, Canada's total potential TRQ for refined sugar was 11,354 short tons from its separate TRQ and 7,815 short tons from the first come, first served global TRQ for refined sugar. Canada did not receive a separate refined sugar TRQ until fiscal year 1997/98. During fiscal year 1996/97 (10/96-9/97), Canada only had access to the first come, first served global TRQ for refined sugar.
[7] Actual Canadian imports are based only on what was imported under Canada's separate refined sugar TRQ. Sugar imports from Canada under the global first come, first served refined sugar TRQ are unknown.
[8] Mexico currently has its own separate TRQ totaling 27,558 short tons, which was negotiated under the NAFTA and started in fiscal year 1996/97. Shipments under this TRQ can be either raw cane sugar or refined sugar. In addition, Mexico received a separate refined sugar TRQ totaling 3,256 short tons starting in fiscal year 1997/98 and can also compete for 7,815 short tons of imports under the first come, first served global TRQ.
[9] Actual Mexican imports are based only on what was imported under Mexico's separate TRQs. Sugar imports from Mexico under the global first come, first served refined sugar TRQ are unknown.

Note: Fiscal year is from October to September.

Source: Economic Research Service, USDA, May 1999.

I-26

(2) the volume of imports exceeds the average of the most recent 3 years by a specific percentage, normally 5, 10, or 25 percent. The Agreement allows only one of the two triggers, price or quantity, to be used at any given time. Provisions to allow safeguards on U.S. imports were proclaimed by the President and added to HTS chapter 99, subchapter IV.[49] In the United States, price-based safeguards are automatically effective unless the Secretary of Agriculture chooses to switch to volume-based safeguards.[50] Switching to a volume-based safeguard is done on a product-specific basis and is not automatically implemented if imports reach the threshold volume; the Secretary of Agriculture must administratively implement the switch and publish the decision in the *Federal Register*.[51]

USDA targeted more than 40 agricultural products for safeguard duties, including sugar. Once the triggers are reached, safeguard tariffs are levied ***in addition to*** normal tariffs. For sugar, safeguard tariffs are applied in addition to either in-quota (tier I) or over-quota (tier II) rates. As negotiated in the NAFTA agreement, price- and quantity-based safeguards do not apply to sugar imports from Canada and Mexico meeting country-of-origin requirements.

Table I-10A lists the price-based safeguard triggers that are currently authorized. Appendix G lists total imports of sugar and syrups by 10-digit HTS number that have been levied price-based safeguard duties during calendar years 1995-98. The data are included in notification documents submitted to the WTO for U.S. imports subject to safeguards.

Table I-10B presents the raw cane and refined sugar safeguard quantity levels that would apply if the Secretary of Agriculture switched to a quantity-based trigger. Table I-11 lists the total potential subject imports from the EU and Canada permitted at the in-quota tariff rates, the over-quota tariff rates, and the additional safeguard rates for fiscal year 1998/99.

U.S. MARKET SEGMENTS

Introduction

Sugar cane milling and refining in the United States date back to the earliest European settlers, who brought sugar cane on ships to the New World. Modern techniques for removing impurities from raw cane sugar were developed in the nineteenth century, and by the 1830s, sugar cane milling and refining was a major U.S. industry. Sugar beet processing was developed by German inventors in the 1700s and the first U.S. beet sugar plant was built in Northampton, MA, in 1838. By the 1880s, modern extraction techniques were developed to produce quality beet sugar in the United States.

Due in part to the high cost of transporting beets and the low percentage of sugar extracted from them relative to total weight, sugar beet processing plants are located in close proximity to regions that grow beets. These regions include the upper Midwest (Nebraska, North Dakota, Michigan, and Minnesota), the northern Rocky Mountains (Colorado, Idaho, Montana, and Wyoming), and the West (California, Oregon, and Washington). For the same reason, sugar cane mills are geographically close to cane growers in Florida, Hawaii, Louisiana, and Texas. Sugar cane refineries (which further process and refine raw cane sugar produced at mills) are located near populated areas to reduce the cost of transporting refined sugar to consumers.

---

[49] See Proc. 6763, 60 FR 1007 (Dec. 23, 1994).

[50] The Secretary of Agriculture has the authority to switch from price triggers to quantity triggers, even within the same quota period. In reality, though, the administrative burden of switching back and forth precludes this, except under extraordinary circumstances.

[51] Only one volume-based safeguard (sheep meat) has been implemented since the Agreement was instituted in 1995. All of the other safeguards have been price-based. In theory, raw and refined sugar are not required to have the same type of safeguard. (For instance, raw sugar could have a volume-based safeguard while refined sugar maintains a price-based safeguard.)

Table I-10A
Price-based safeguard triggers for imports of sugar and syrups in 1999[1 2]

Import value	Raw cane sugar	Refined (or raw beet) sugar and syrups
Valued less than 2.27 cents per lb.	5.85 cents per lb.	9.80 cents per lb.
Valued 2.27 cents per lb. or more but less than 4.54 cents per lb.	3.95 cents per lb.	7.76 cents per lb.
Valued 4.54 cents per lb. or more but less than 6.80 cents per lb.	2.49 cents per lb.	5.94 cents per lb.
Valued 6.80 cents per lb. or more but less than 9.07 cents per lb.	1.36 cents per lb.	4.35 cents per lb.
Valued 9.07 cents per lb. or more but less than 11.34 cents per lb.	0.68 cent per lb.	3.22 cents per lb.
Valued 11.34 cents per lb. or more	No additional duty	
Valued 11.34 cents per lb. or more but less than 13.61 cents per lb.		2.09 cents per lb.
Valued 13.61 cents per lb. or more but less than 15.88 cents per lb.		1.41 cents per lb.
Valued 15.88 cents per lb. or more		No additional duty

[1] All duties and price ranges are converted from cents per kilogram. The safeguard duties for raw sugar are provided for in HTS subheadings 9904.17.01-07. The safeguard duties for raw beet sugar and refined sugars and syrups are provided for in HTS subheadings 9904.17.08-16.
[2] Safeguard duties do not apply to sugar imports from Canada and Mexico that meet NAFTA country-of-origin requirements.

Source: Harmonized Tariff Schedule of the U.S.

U.S. Sugar Beet Processors

Seven firms comprise the sugar beet processing sector of the domestic industry and account for 46 percent of the U.S. production of refined sugar from both cane and beets in 1998. Those firms, and the location of their facilities, are listed in table I-12. All seven are parties to these reviews and oppose revocation of the outstanding AD and CVD orders on sugar.

The sugar beet processing sector has pared down the total number of plants processing beets since the first order was put into place, particularly as alternative sweeteners captured most of the beverage market in the 1980s. Imperial Sugar closed six sugar beet facilities over the period, including four in California (three from its Holly Sugar subsidiary and one from its Spreckels subsidiary). Western Sugar closed six processing facilities--five in 1985 alone. In many cases, though, plant closures were

I-28

Table I-10B **Quantity-based safeguard triggers for imports of sugar and syrups, October 1, 1997-September 30, 1999[1 2]**		
Item	Oct. 1, 1997- Sept. 30, 1998	Oct. 1, 1998- Sept. 30, 1999
Raw cane sugar	2,263,717 metric tons (2,495,295 short tons)	2,366,204 metric tons (2,608,267 short tons)
Raw beet sugar and refined sugar and syrups	22,660 metric tons (24,978 short tons)	25,484 metric tons (28,091 short tons)

[1] The safeguard duties for raw sugar are provided for in HTS subheadings 9904.17.01-07. The additional duty for raw sugar during periods with quantity safeguards is 5.26 cents per pound (HTS 9904.17.07). The safeguard duties for raw beet sugar and refined sugars and syrups are provided for in HTS subheadings 9904.17.08-16, with the duty during periods with quantity safeguards being 5.58 cents per pound (HTS 9904.17.16).
[2] Safeguard duties do not apply to sugar imports from Canada and Mexico that meet NAFTA country of origin requirements.

Source: 64 FR 11435 (Mar. 9, 1999); 63 FR 13387 (Mar. 19, 1998); and 60 FR 427 (Jan. 4, 1995).

Table I-11: Potential sugar imports subject to the in-quota (tier I) tariff rate, the over-quota (tier II) tariff rate, and the safeguards trigger rate in fiscal year 1998/99

(Short tons)			
Country	Imports at the in-quota rate[1] (tier I)	Imports at the over-quota rate (tier II)	Imports subject to safeguards rate
European Union[2]	7,815	Over 7,815	Over 7,815
Canada[3]	19,169	Over 19,169	(4)

[1] Note that because the EU and Canada compete for the same import quantities under the global first come, first served refined sugar TRQ, potential TRQ quantities for the two countries are not additive.
[2] The EU import totals also apply to Belgium, France, and Germany. However, imports by any of the EU member countries detract from the EU total.
[3] During fiscal years 1997/98 and 1998/99, Canada's total potential TRQ for refined sugar was 11,354 short tons from its separate TRQ and 7,815 short tons from the first come, first served global TRQ for refined sugar.
[4] The safeguards trigger rate does not apply to imports from Canada.

Note: Fiscal year is from October to September.

Source: Economic Research Service, USDA, May 1999; 64 FR 11435 (Mar. 9, 1999); 63 FR 13387 (Mar. 19, 1998); and 60 FR 427 (Jan. 4, 1995).

I-29

Table I-12
U.S. sugar beet processors, plant locations, and shares of total U.S. production of refined sugar in 1998

Firm	Plant locations	Position on revocation	Share of 1998 U.S. production of refined sugar *(percent)*
Amalgamated Sugar Co.	Nampa, ID Nyssa, OR Paul, ID Twin Falls, ID	Oppose on all orders.	***
American Crystal Sugar Co.	Drayton, ND East Grand Forks, MN Crookston, MN Hillsboro, ND Moorhead, MN	Oppose on all orders.	***
Holly Sugar Corp. (subsidiary of Imperial Sugar Corp.)	Moses Lake, WA Sidney, MT Torrington, WY Worland, WY	Oppose on all orders.	***
Michigan Sugar Co. (subsidiary of Imperial Sugar Corp.)	Caro, MI Carrollton, MI Croswell, MI Sebewaing, MI	Oppose on all orders.	***
Minn-Dak Farmers Cooperative	Wahpeton, ND	Oppose on all orders.	***
Monitor Sugar Co.	Bay City, MI	Oppose on all orders.	***
Southern Minnesota Beet Sugar Cooperative	Renville, MN	Oppose on all orders.	***
Spreckels Sugar Co. (subsidiary of Imperial Sugar Corp.)	Brawley, CA Mendota, CA Tracy, CA Woodland, CA	Oppose on all orders.	***
Western Sugar Co. (subsidiary of Tate and Lyle North America)	Bayard, NE Billings, MT Fort Morgan, CO Greeley, CO Lovell, WY Scottsbluff, NE	Oppose on all orders.	***

[1] ***.

Source: Data compiled from Commission questionnaires.

I-30

intended to shed capacity at smaller, less efficient facilities and allow for expansion at larger, more profitable plants in the same regions. For example, production at *** has grown from *** short tons of refined sugar in 1978 to an estimated *** short tons in 1998. *** increased its production from *** short tons in 1983 to *** short tons in 1988. Total domestic beet sugar production has increased since 1980. See table I-13.

There are notable exceptions, however, to the processing sector's gradual expansion of capacity as less efficient facilities are closed. The first is Western Sugar's closure of its Goodland, KS, facility in 1985. This plant was not replaced anywhere in the region and it closure effectively ended sugar beet farming in Kansas. Other examples were the closure of Great Lakes Sugar's Freemont, OH,[52] plant in 1995 and Imperial Sugar's Hereford, TX, plant in 1998. Without local processors to convert their beets into refined sugar, farmers in northern Texas and northern Ohio were forced to abandon the crop. See table 1-14.

The sugar beet processing and sugar cane milling and refining sectors have completed "crossover" purchases and increased cooperation to hedge against business risk and legislative uncertainty. Tate and Lyle, which owns three U.S. cane refineries through its Domino Sugar subsidiary, purchased Western Sugar and its sugar beet processing plants in 1987. Unified marketing arrangements are also becoming more common, in large part to gain market power vis-a-vis sugar customers such as processed food manufacturers, which have rapidly consolidated over the last decade. The primary example of unified marketing is United Sugars Corp., an entity created in 1994 by American Crystal, Minn-Dak Farmers Cooperative, and Southern Minnesota Beet Sugar Cooperative to set prices and market their sugar collectively.[53] The combined entity now controls about *** percent of the total domestic sugar supply.

U.S. Cane Sugar Refineries

Seven companies comprise the cane sugar refining sector of the domestic industry; they operate 12 refineries in the United States and Puerto Rico and together account for 54 percent of total U.S. refined sugar production in 1998. See table I-15. Four of the seven are parties in these reviews (California & Hawaiian Sugar, Imperial Sugar, Refined Sugars, and Tate and Lyle North America). *** of the refineries which responded to the Commission's questionnaire oppose revocation of the orders.

The refining sector has undergone vertical integration since the original CVD and AD orders were put into effect. Refined Sugars, Inc. of Yonkers, NY, was purchased from Lantic Sugar[54] in December 1998 by a partnership of Okeelanta Corp. and the Sugar Cane Growers Cooperative of Florida, two Florida cane milling concerns. Each of the partners ***. This purchase was done to ensure that refining capacity remains available to the two millers as the refining sector continues to shed plants and consolidate.[55] U.S. Sugar Corp., a cane grower and miller, opened a state of the art refinery in October

[52] Great Lakes was a subsidiary of Savannah Foods and Industries, Inc., which was purchased by Imperial Sugar in 1997. The Associated Press reported that Imperial Sugar was willing to re-open the Freemont, OH, plant in 1998 if Ohio farmers committed to grow 18,000 acres of sugar beets. Only 8,000 acres were committed by the December 1997 deadline. (See Lubbock Avalanche-Journal, Dec. 9, 1997.)

[53] American Crystal, Minn-Dak, and Southern Minnesota are sugar beet cooperatives from the Red River Valley encompassing parts of North Dakota and Minnesota. Shortly after United Sugars' inception, membership was extended to U.S. Sugar Corp., a vertically-integrated cane sugar producer based in Clewiston, FL.

[54] Lantic Sugar is based in Toronto, Canada.

[55] ***.

I-31

Table I-13: U.S. beet sugar production, 1980/81-1998/99[1]	
Year	Quantity *(1,000 short tons)*
1980/81	3,149
1981/82	3,388
1982/83	2,737
1983/84	2,699
1984/85	2,905
1985/86	3,000
1986/87	3,416
1987/88	3,998
1988/89	3,507
1989/90	3,442
1990/91	3,842
1991/92	3,729
1992/93	4,386
1993/94	4,047
1994/95	4,493
1995/96	3,916
1996/97	4,013
1997/98	4,225
1998/99[2]	4,350

[1] Crop year is Sept./Aug. for Florida, Louisiana, Texas, and Puerto Rico. Crop year for Hawaii is the calendar year.
[2] Crop year 1998/99 is an estimate.

Source: *Sugar and Sweetener*, USDA: June 1993 and May 1998.

1998 to process its raw sugar in Clewiston, FL. Although still in the startup phase, its annual capacity is reported to be about *** short tons of refined sugar.[56]

Several refining facilities have closed since 1978. See table I-16. For example, California & Hawaiian Sugar Co. closed the last Hawaiian refinery in 1996, after converting it in 1993 from a full service refinery into a liquid sugar plant for the local soft drink market. It was forced to close once high fructose corn syrup entered the Hawaiian marketplace at mainland U.S. prices. Domino Sugar plans to stop refining sugar in Brooklyn ***; this facility will do only finishing and packaging. Some of the

[56] Information obtained in a June 7, 1999, telephone conversation with ***.

I-32

Table I-14
Partial list of U.S. sugar beet processors closed since the original investigations

Firm	Plant locations	Period when closed
Great Lakes Sugar Co. (subsidiary of Imperial Sugar Corp.)	Freemont, OH	Closed prior to 1996/97 crop year
Holly Sugar Corp. (subsidiary of Imperial Sugar Corp.)	Betteravia, CA	1993
	Hamilton City, CA	(1)
	Hereford, TX	1998
	Santa Ana, CA	(1)
Spreckels Sugar Co. (subsidiary of Imperial Sugar Corp.)	Manteca, CA	1996
Western Sugar Co. (subsidiary of Tate and Lyle North America)	Brighton, CO	1977
	Gering, NE	1985
	Goodland, KS	1985
	Longmont, CO	1977
	Loveland, CO	1985
	Mitchell, NE	1996
	Ovid, CO	1985
	Sterling, CO	1985

[1] Date of closure is unknown.

Source: Data compiled from Commission questionnaires.

refining capacity will shift to its Baltimore plant, but Domino's overall refining capacity is expected to decline by 25 percent.[57]

U.S. Sugar Mills

Sugar cane milling is concentrated in Florida, Hawaii, Louisiana, Texas, and Puerto Rico. Table I-17 lists the names and locations of firms currently milling raw cane sugar in the United States. *** of the 24 firms answering the questions oppose revocation of any of the outstanding AD or CVD orders.

The sugar cane milling sector has undergone a widespread consolidation since the original investigations, in an attempt to produce greater business efficiencies. In Florida, Talisman Sugar Corp. closed its doors in the first quarter of 1999, selling much of the land to the Federal Government and exiting the industry. Hawaii, a high cost sugar producing region, has seen the number of sugar mills decline from approximately 15 in 1979 to 6 plants controlled by 3 companies today. At least three companies, C. Brewer, Castle & Cooke, and Francis Morgan, have exited the Hawaiian market. One of the six remaining mills, *** of annual raw sugar production capacity, is ***. The total quantity of raw sugar produced in Hawaii was in excess of 1 million short tons in 1979. In 1999, it is approximately 354,000 short tons.

[57] Domino asserts that it was ***. See Domino's Processors'/Refiners' questionnaire, p. 5. See also Tr. at 31-32.

Table I-15
U.S. sugar cane refiners, plant locations, and shares of total U.S. production of refined sugar in 1998

Firm	Plant locations	Position on revocation	Share of 1998 U.S. production of refined sugar *(percent)*
California & Hawaiian Sugar Co.	Crockett, CA	Oppose on all orders.	***
Florida Crystals, Inc.	South Bay, FL	***	***
Imperial Sugar Corp.	Clewiston, FL Gramercy, LA Port Wentworth, GA Sugar Land, TX	Oppose on all orders.	***
Refined Sugars, Inc. (subsidiary of Sugar Cane Growers Cooperative of Florida)	Yonkers, NY	Oppose on all orders.	***
Sugar Corp. of Puerto Rico	Ponce, PR	***	***
Domino Sugar Co. (subsidiary of Tate and Lyle North America)	Baltimore, MD Brooklyn, NY Chalmette, LA	Oppose on all orders.	***
U.S. Sugar Corp.	Clewiston, FL	***	Opened October 1998.[1]

[1] Information obtained in a June 7, 1999 telephone conversation with ***.

Source: Data compiled from Commission questionnaires.

The Louisiana sugar mill industry also retrenched over the last two decades. According to ***, 16 mills have closed since 1975 and 17 now remain. The heaviest period of closure was just prior to the original sugar investigations, from 1975 through 1979. During that period, 10 mills closed, shedding over 1.2 million short tons of production capacity. Between 1980 and 1987, three mills closed--Helvetia, Meeker, and Smithfield, with a combined capacity of over 470,000 short tons. Oaklawn and Columbia closed in 1987 and 1995, respectively. See table I-18.

Puerto Rican sugar mills, which are reported to be chronically inefficient and plagued by labor unrest, have seen dramatic declines in total production capacity since the mid-1970s.[58] Nine raw sugar mills closed over this period, accounting for more than 80 percent of Puerto Rico's raw sugar production. No other facilities have expanded to either make up this production gap or modernize the industry. Even today, it is estimated that the two remaining mills, Central Agraso and Central Roig, would need to produce far more than their current production to approach efficient output levels.[59]

[58] In 1998, Puerto Rican cane grinding capacity was approximately 10,000 short tons per day, down from 53,000 short tons in the mid-1970s. At present, Puerto Rico imports raw sugar to meet its consumption needs and ships almost no raw or refined sugar to the United States. (See USDA's Sugar and Sweetener, Situation and Outlook Report, Dec. 1998, pp. 22-33.)

[59] See Nydia R. Suarez's *The Rise and Decline of Puerto Rico's Sugar Economy* in *Sugar and Sweetener*, USDA, Dec. 1998.

I-34

Table I-16
Partial list of U.S. sugar cane refineries closed since the original investigations

Firm	Plant locations	Period when closed	Daily melting capacity *(short tons)*
California & Hawaiian Sugar Co.	Alea, HI	1996	142
Florida Sugar	Belle Glade, FL	1986	390
Godchaux-Henderson	Reserve, LA	1985	1,900
Imperial Sugar Corp.	St. Louis, MO	1986	300
Louisiana Sugar Cane	Mathews, LA	1985	600
Revere	Boston, MA Brooklyn, NY Chicago, IL	1984 1985 1984	1,200 1,120 850
Domino Sugar Co. (subsidiary of Tate and Lyle North America)	Boston, MA Philadelphia, PA	1988 1982	1,000 2,100
Supreme Sugar Co.	Supreme, LA	1995	850
Total			**10,452**

Source: *Sugar and Sweeteners*, USDA: September 1997.

In spite of these closures, domestic raw cane sugar production has increased since 1980. See table I-19. Any production capacity lost to closures was offset by expansions at the more efficient mills. For example, *** in Louisiana reported that its annual cane grinding capacity ***. Total cane sugar production in Louisiana has risen nearly 50 percent between 1992 and 1997.[60] In Florida, due to Talisman's closure, *** anticipates *** raw sugar production by approximately ***.

U.S. Sugar Beet Growers

Sugar beets are grown primarily in the upper Midwest (Nebraska, North Dakota, Michigan, and Minnesota), the northern Rocky Mountains (Colorado, Idaho, Montana, and Wyoming), and the West (California, Oregon, and Washington). The Commission decided to sample domestic sugar beet growers rather than send questionnaires to the entire sector, which numbers over 9,000 farms.[61] To obtain the largest possible percentage of sugar beets grown, cover a representative geographic area, and yet still keep the sample list to a reasonable size, Commission staff chose only the largest growers from each

[60] According to the USDA, raw cane sugar production in Louisiana rose from 862,000 short tons in 1992 to 1,269,000 tons in 1997. (See *Sugar and Sweetener*, USDA, Dec. 1998.)

[61] Initially, many of the trade associations representing both beet and cane growers were reluctant to release membership lists to the Commission so that the staff could select growers which fit sample requirements regarding geographic dispersion and farm size. In the end, the associations did release membership lists, but in many cases, the lists were "blind" and Commission staff received names and addresses from only the growers which were chosen by staff from a numerical list. (A "blind" membership list is one where the names and addresses are not disclosed. Only the acreage was given.)

I-35

Table I-17
U.S. sugar cane mills, plant locations, and net sales of raw sugar in 1998

Firm	Plant locations	Position on revocation	Net sales in 1998 *(short tons)*
Florida:			
Atlantic Sugar Association (subsidiary of Florida Crystals)	Belle Glade, FL	***.	***
Florida Crystals Corp. Okeelanta Corp. Osceola Farms Co.	South Bay, FL Pahokee, FL	***.	***
Sugar Cane Growers Cooperative of Florida	Belle Glade, FL	***.	***
Talisman Sugar Corp.	South Bay, FL	Not reported/closed.	***
U.S. Sugar Corp.	Pahokee, FL Clewiston, FL	***.	***
Subtotal			**1,494,000**
Hawaii:			
Gay and Robinson	Kaumakani, Kauai	***.	***
Hawaiian Commercial and Sugar Co.	Paia, Maui Puunene, Maui	***.	***
The Lihue Plantation Co., Ltd. (subsidiary of Amfac, Inc.)	Kekaha, Kauai Lihue, Kauai	***.	***
Pioneer Mill Co., Ltd. (subsidiary of Amfac, Inc.)	Lahaina, Maui	***.	***
Subtotal			**354,000**
Louisiana and Texas:			
Alma Plantation, Inc.	Lakeland, LA	Not reported.	***
Cajun Sugar Coop	New Iberia, LA	***.	***
Caldwell Sugars Coop	Thibodeaux, LA	***.	***

Continued.

Table I-17 (Continued)
U.S. sugar cane mills, plant locations and net sales of raw sugar in 1998

Firm	Plant locations	Position on revocation	Net sales in 1998 *(short tons)*
Cinclare Central Factory	Brusly, LA	***.	***
Cora-Texas Mfg. Co, Inc.	White Castle, LA	***.	***
Evan Hall Sugar Coop	Donaldsonville, LA	***.	***
Glenwood Coop, Inc.	Napoleonville, LA	***.	***
Iberia Sugar Coop, Inc.	New Iberia, LA	***.	***
Jeanerette Sugar Co., Inc.	Jeanerette, LA	***.	***
LaFourche Sugar Corp.	Thibodeaux, LA	Not reported.	***
Louisiana Sugar Cane	St. Martinville, LA	***.	***
Lula-Westfield, LLC	Bell Rose, LA Paincourtville, LA	***.	***
M.A. Patout & Sons, Ltd.	Jeanerette, LA	***.	***
Raceland Raw Sugar Corp.	Raceland, LA	***.	***
St. James Sugar Cooperative, Inc.	St. James, LA	***.	***
St. Mary Sugar Cooperative, Inc.	Jeanerette, LA	***.	***
Sterling Sugars, Inc.	Franklin, LA	***.	***
Rio Grande Valley Sugar Cooperative	Santa Rosa, TX	***.	***
Subtotal			**1,453,000**
Puerto Rico:[2]			
Central Agraso (formerly Coloso)	Aguada, PR	Not reported.	170,000
Central Roig[3]	Yabucoa, PR	Not reported.	57,000
Subtotal			**227,000**
Total, U.S. and Puerto Rico			**3,528,000**

[1] Data not available.
[2] Data for Puerto Rican mills based on public USDA data (short tons produced).
[3] USDA reported that the Central Roig mill in Puerto Rico was temporarily closed for part of 1998 due to hurricane damage.

Source: Commission questionnaires; American Sugar Cane League; Gay and Robinson; *Sugar: Background for 1995 Farm Legislation*, USDA; and *Sugar and Sweetener*, USDA, Dec. 1998.

Table I-18
Partial list of U.S. sugar mills closed since the original investigations

Firm	Plant locations	Period when closed	Annual production *(short tons)*[1]
Florida:			
Talisman Sugar Co.	South Bay	1999	144,071
Hawaii:			
Alexander & Baldwin McBryde Sugar Co.	Kola, Kauai	1996	39,000
Amfac Oahu Sugar Co. Puna Sugar Co.	Waipahu, Oahu Puna, Hawaii	1995 1984	79,000 56,000
C. Brewer Hilo Coast Processing Ka'u Agribusiness Co. Wailuku Agribusiness	Pepeekeo, Hawaii Pahala, Hawaii Wailuku, Maui	1994 1996 1988	75,000 53,000 23,000
Castle & Cooke Waialua Sugar Co.	Waialua, Oahu	1996	61,000
Francis Morgan Hamakua Sugar Co. Olokele Sugar Co.	Haina, Hawaii Ookala, Hawaii	1994 1987	119,000 30,000
Subtotal			**535,000**
Louisiana:			
Armant	St. James Parish	1975-79	190,392
Greenwood	Lafourche	1975-79	176,464
Southdown	Terrebonne	1975-79	177,047
Billeaud	Lafayette Parish	1975-79	159,754
Cedar Grove	Iberville	1975-79	([2])
Georgia	Lafourche	1975-79	135,704
Louisa	Iberia	1975-79	144,377
Myrtle Grove	Iberville	1975-79	136,842
Valentine	Lafourche	1975-79	114,432
Supreme	Assumption	1975-79	([2])

Continued.

Table I-18 (continued)
Partial list of U.S. sugar mills closed since the original investigations

Firm	Plant locations	Period when closed	Annual production *(short tons)*[1]
Helvetia	St. James Parish	1980-87	119,094
Meeker	Rapides	1980-87	145,462
Smithfield	Pointe Coupee	1980-87	207,113
Oaklawn	St. Mary's Parish	1987	([2])
Breaux Bridge	Breaux Bridge	1995	([2])
Columbia	St. John's Parish	1995	([2])
Subtotal			**1,706,681**
Puerto Rico:			
Aguirre Sugar Co.	Salinas	1990	([2])
Central Cambalache	Arecibo	1976-85	([2])
Central Eureka	Hormigueros	1976-85	([2])
Central Fajardo	Fajardo	1976-85	([2])
Central Guanica	Ensenada	1981	([2])
Central Igualdad, Inc.	Mayaguez	1976-85	([2])
Central Mercedita	Ponce	1995	([2])
Central Plata	San Sebastian	1996	([2])
Central San Francisco	Yauco	1976-85	([2])
Subtotal			**([2])**
Total, U.S. and Puerto Rico			**2,385,752**

[1] Data for Hawaiian mills are given as the average number of short tons of raw sugar produced annually over the 10 years prior to closure. Data for Louisiana mills and Talisman are given as production for the last full year in operation.
[2] Data not available.

Source: American Sugar Cane League; Gay and Robinson; *Sugar and Sweetener*, USDA, Dec. 1998; and *Sugar: Background for 1995 Farm Legislation*, USDA report.

I-39

Table I-19
U.S. cane sugar production, 1980/81-1997/98[1]

Year	Quantity *(1,000 short tons, raw value)*
1980/81	2,728
1981/82	2,833
1982/83	3,063
1983/84	2,930
1984/85	3,007
1985/86	3,033
1986/87	3,281
1987/88	3,333
1988/89	3,398
1989/90	3,176
1990/91	3,152
1991/92	3,430
1992/93	3,370
1993/94	3,482
1994/95	3,549
1995/96	3,456
1996/97	3,254
1997/98	3,633

[1] Crop year is September/August for Florida, Louisiana, and Texas. Crop year for Hawaii is the calendar year. Puerto Rico is not included.

Source: *Sugar and Sweetener*, USDA: June 1993 and May 1998.

regional growers' association and chose at least five growers from each association list received in a timely manner. Eighty questionnaires were delivered to sugar beet growers and 52 were returned, with a wide variance in the quality and depth of their responses. Data from sugar beet growers are listed in table C-5 of appendix C.

U.S. Sugar Cane Growers

Domestically-grown sugar cane is produced in Florida, Hawaii, Louisiana, Texas, and Puerto Rico. Unlike beets, sugar cane is normally produced on single-crop farms, and the land does not need to be periodically rotated with other crops. In light of the large number of sugar cane growers, which number in the hundreds, the Commission chose to send questionnaires to a representative sample of this sector rather than seek full coverage. Commission staff chose only the largest growers from each regional growers' association and chose at least five growers from each association list received in a timely

I-40

manner. Thirty-seven questionnaires were mailed and 24 were returned to the Commission. Data from sugar cane growers are listed in tables C-6A and C-6B of appendix C.

U.S. Importers

The Commission sent questionnaires to 21 firms that were believed to import sugar and syrups subject to these reviews. Fifteen of the 21 importers' questionnaires were returned; eight supplied usable data. Of the 21 firms, 5 were believed to be importers of sugar and/or syrups from the EU or Canada[62] and 16 were importers from non-subject countries only. Of those importers thought to be importing from subject countries, three returned usable questionnaire responses; two of the usable responses *** reported sugar imports, but did not report imports from subject countries. Approximately 100 percent of Canadian imports are accounted for by those importers providing data. None of the importers reported importing subject merchandise from the European Union.

Several of the importers are also domestic parties to these reviews. *** reported sizable imports from multiple non-subject sources. None of the domestic producers reported imports of subject merchandise.

U.S. Purchasers

Sugar is sold to end users (both industrial and retail) and distributors in the U.S. market. Questionnaires were sent to 35 companies that were believed to be purchasers (both end users and distributors) of sugar; usable responses were received from 14 firms. *** reported purchasing approximately *** percent of the sugar imported from Canada during 1997 and approximately *** percent of the sugar imported from Canada in 1998. None of the purchasers responding to the Commission's questionnaire reported sugar purchases from the EU.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of sugar declined from 1981 to 1986, in large part because alternative sweeteners captured some of sugar's traditional markets, including soft drinks and other beverages. Since the late 1980s, sugar demand has stabilized, and consumption is now increasing annually with population growth and overall food demand. See table I-20 and figure I-1.

Over the period for which the Commission collected data, domestic sugar consumption showed mixed trends, increasing more than 1.1 percent from 1997 to 1998 but falling by approximately the same percentage during the interim periods. Shipments by U.S. producers captured all of the consumption growth over the 2-year span, raising their overall market share from 73.0 percent in 1997 to 80.5 percent in 1998. See table I-21.

Imports of merchandise from subject countries were nearly zero throughout the period for which the Commission collected data. Imports from Canada had the highest import penetration, totaling 0.1 percent of U.S. consumption in 1997, 1998, and the first quarter of 1999. The current market share held by imports is far lower than during the original investigations. See tables I-1A, I-2A, and I-3A.

[62] The five companies were ***.

I-41

Table I-20
U.S. sugar consumption, 1981-98[1]

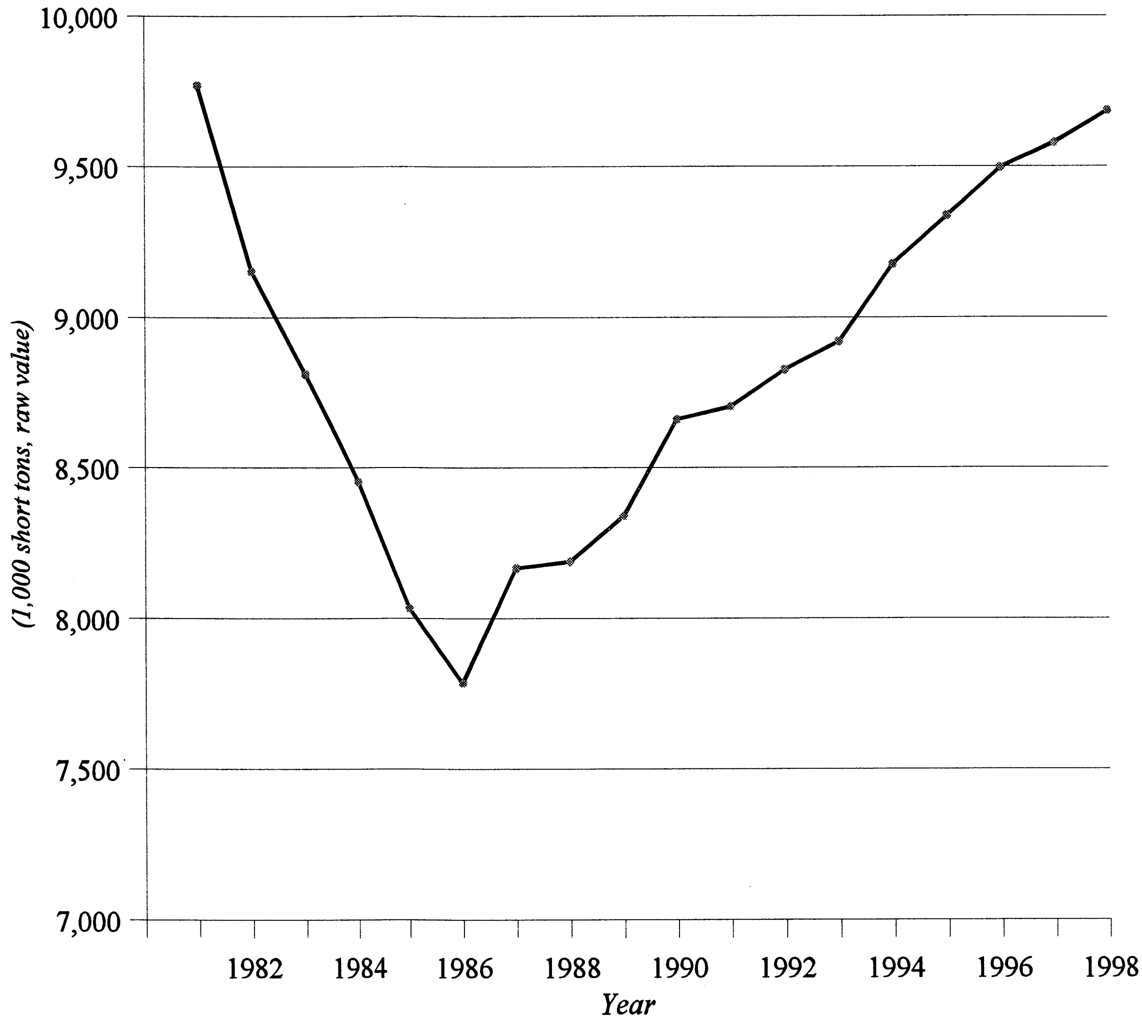
Year	Quantity *(1,000 short tons, raw value)*
1981	9,770
1982	9,153
1983	8,812
1984	8,454
1985	8,035
1986	7,786
1987	8,167
1988	8,188
1989	8,340
1990	8,661
1991	8,704
1992	8,826
1993	8,920
1994	9,177
1995	9,337
1996	9,496
1997	9,578
1998	9,684

[1] Consumption data from 1981-91 are total U.S. sugar deliveries. Data for 1992-98 are domestic consumption. The difference is that sugar deliveries include sugar re-exported in products and sugar used for polyhydric alcohol and livestock feed equaling approximately 150,000 tons in any given year.

Source: *Sugar and Sweetener*, USDA: June 1993, May 1998; and May 1999.

I-42

Figure I-I
U.S. sugar consumption, 1981-98



Source: *Sugar and Sweetener*, USDA--June 1993 and May 1999.

Table I-21
Sugar: Estimated U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1997-98 and January-March 1998 and 1999

Item	1997	1998	January-March 1998	January-March 1999
	Quantity *(short tons, raw value)*			
U.S. shipments of domestic product[1]	6,987,778	7,799,647	1,870,652	1,978,852
U.S. imports from-- Belgium	317	119	71	38
France	7	66	43	10
Germany	1	9	0	[2]
Other EU countries	11	74	3	39
Total EU countries[3]	337	267	117	87
Canada	12,731	12,102	0	1,828
All other sources	3,178,277	2,216,500	380,687	500,792
Total imports	3,191,345	2,228,869	380,804	502,707
Netted imports[4]	2,590,222	1,884,353	362,348	229,148
Apparent U.S. consumption	9,578,000	9,684,000	2,233,000	2,208,000
	Share of apparent U.S. consumption *(percent)*			
U.S. shipments of domestic product	73.0	80.5	83.8	89.6
U.S. imports from-- Belgium	[5]	[5]	[5]	[5]
France	[5]	[5]	[5]	[5]
Germany	[5]	[5]	0	[5]
Other EU countries	[5]	[5]	[5]	[5]
Total EU countries[3]	[5]	[5]	[5]	[5]
Canada	0.1	0.1	0	0.1
All other sources	33.2	22.9	17.0	22.7
Total imports	33.3	23.0	17.1	22.8
Netted imports	27.0	19.5	16.2	10.4

[1] U.S. shipments of domestic product were calculated by subtracting imports based on Commerce data (netted to remove imports for re-exportation) from total consumption (USDA data).
[2] Less than 0.5 short tons.
[3] There is evidence from Customs' *Antidumping/Countervailing Duty Annual Report* that most of the imports from the EU are not subject to the order. They may, in fact, be specialty sugars. For more information, see Part IV.
[4] Although raw sugar imports which are refined and re-exported and certain sugar used in the production of polyhydric alcohols are included in the scopes of *Sugar from the European Union* and *Sugar from Belgium, France, and Germany* (and are therefore included in total imports), apparent U.S. consumption from USDA does not include re-exported sugar or sugar used for polyhydric alcohol in the total. In order to calculate U.S. shipments of domestic product (see footnote 1 above), total imports must be netted to remove imports for re-exportation and sugar used to produce polyhydric alcohol, as defined in the description for HTS number 1701.11.2000. All imports entered under 1701.11.2000 during 1997, 1998, and the interim periods were from non-subject sources.
[5] Less than 0.05 percent.

Note: Because of rounding, figures may not add to totals shown.

Source: Compiled from official Commerce import statistics and *Sugar and Sweetener*, USDA: Dec. 1998 and May 1999.

I-44

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

INTRODUCTION AND OVERVIEW OF WORLD MARKETS

Trade restrictions in many countries have resulted in most of the world's sugar output being consumed in the country of origin. Many national governments intervene in some way in their internal sugar markets. Typical interventions include production subsidies, export subsidies, and restrictions on imports. Only 20 to 25 percent of world production is freely traded.[1] About 64 percent of world sugar production is from sugar cane, with the rest produced from sugar beets. Each year since sugar marketing year 1989/90, the United States has produced more beet sugar than cane sugar; 52.7 percent of U.S. sugar production in 1997/98 was beet sugar. Sugar is an important crop and is valued at approximately 3 percent of the total value of principal U.S. crops.[2] Historically, more trade has occurred in raw sugar produced from sugar cane than in refined sugar because refined sugar more easily absorbs moisture from the atmosphere, the prevention of which increases shipping and handling costs. As production of sugar from beets has grown, particularly in Europe, trade in refined sugar has increased.

U.S. MARKET SEGMENTS, CHANNELS OF DISTRIBUTION, AND MARKET STRUCTURE

The only areas of the United States that produce sugar cane are Hawaii, Louisiana, Texas, Florida, and Puerto Rico. After harvest, sugar cane is transported to processing mills, which produce raw sugar. Because sugar cane is bulky, over 50 percent water, and its sugar content deteriorates rapidly, most processing mills are located within 100 miles of the growing site. Many corporations grow their own cane and extract raw sugar in their own mills. Independent growers also produce sugar cane, which may be processed by mills owned by grower cooperatives or sold to mills owned by unrelated parties.

Significant quantities of sugar beets are grown in 14 states, the largest of which are Minnesota, North Dakota, Idaho, Michigan, and California. Many independent growers produce sugar beets, which are rotated with other crops to reduce disease. Most sugar beet growers sign contracts with an independent processor or a cooperative. Some processors may provide capital to develop land for sugar beet production, and some sugar beets are grown on land owned by processors. Also, some farmer cooperatives have integrated forward and own their own factory to process sugar beets.

The United States Beet Sugar Association (USBSA) and the United States Cane Sugar Refiners' Association (USCSRA), in contrast to the situation in the original cases, asserted that sugar now moves throughout the country regardless of where it was refined.[3] Staff estimated that no imports from Belgium, France, or Germany entered the "southeastern United States region" from 1997 to 1999, and staff estimated that imports from Canada were less than 1 percent of U.S. production in the "northeastern United States region" during this same period. *** stated that its sugar imports from Canada into the United States are primarily to Midwestern markets. A representative of United Sugars reported that it ships sugar to more than 2,000 destinations in all regions of the country and that producers can compete nationwide, if they can negotiate favorable freight rates.[4] Responses to the Commission's processors' questionnaire

---

[1] Coffee, Sugar, and Cocoa Exchange, www.csce.com.

[2] Roy Boyd, K. Doroodian, and A. Powers, "The Impact of Removing the Sugar Quota on the U.S. Economy: A General Equilibrium Analysis," *Journal of Policy Modeling*, vol. 18(2), 1996, p. 186.

[3] Substantive Response of USBSA and USCSRA, pp. 46-47.

[4] Hearing transcript, pp. 24-25.

II-1

revealed that some processors ship to locations over 1,000 miles from the plant while others serve closer markets. The national market currently appears more integrated than at the time of the original determinations, although transportation costs limit somewhat the distance over which sales are made.

Concentration has increased among sellers of refined sugar in the United States. The share of production capacity held by the top 4 companies rose from 51 percent in 1983 to 60 percent in 1989 and to 75 percent in 1997.[5] Since 1998, U.S. Sugar Corp. has added the capacity to refine sugar at the site of one of its sugar cane mills. United Sugar was formed in 1994 to market the sugar of three beet processing cooperatives in Minnesota and North Dakota. U.S. Sugar also announced that United Sugar would market all of its refined sugar. With these developments, United Sugar heightened its market presence in the East and Southeast portions of the country, and it announced a licensing agreement with Pillsbury to create and market a Pillsbury Best brand of sugar. This currently leaves nine sellers of domestically produced refined sugar. Tate and Lyle, which owns Domino Sugar and Western Sugar, is the largest of these companies, and it markets both cane and beet sugar.[6]

USBSA and USCSRA stated that 16 beet or cane processing mills have closed since 1993.[7] These closings are part of the industry's continuing effort to increase efficiency by restructuring. For example, 7 of these plants were located in the high-cost region of Hawaii. Also, as noted in Part III, domestic production has continued to increase, despite these plant closings, as consolidation has occurred.

Investments in sugar cane milling and refining of sugar beets and raw sugar have few, if any, alternate uses and are dependent upon a steady supply of raw materials. Similarly, growers of sugar beets and sugar cane depend upon the processors and millers to purchase their crops. In this situation, some type of ex-ante contracting or vertical integration is likely. The sugar beet industry has tended to use contracts between growers and refiners as a means to share production risk. The domestic cane sugar industry, where sugar cane growers usually only produce sugar cane, has tended more towards vertical integration.[8]

U.S. SUPPLY OF DOMESTICALLY PRODUCED SUGAR

Production of sugar begins with production of an agricultural product, either sugar cane or sugar beets. Sugar beets are an annual crop typically grown on farms in conjunction with other crops, although sugar beets may be the primary crop with other crops grown primarily for rotation reasons. A planting of sugar cane typically produces crops for 2 to 4 years, and sugar cane growers tend to be more specialized. As with other agricultural products, weather, pests, and other factors make annual production variable and associated prices variable as well. The sugar beet producer, who produces other crops as well and decides annual planting levels of sugar beets, is able to respond to price signals somewhat more quickly than the sugar cane producer, whose sole crop may be sugar cane, which has a longer productive life. Fixed assets, such as land, and a relatively long production cycle limit the ability of either producer to respond quickly to changes in price. Production levels are largely determined by acres planted, the amount of inputs used, site characteristics, and random factors. A sugar beet producer, for example, may vary the area planted in beets inversely with the rise and fall of sugar stocks.

Since the original investigations, some changes in production methods have occurred that affect supply. Genetic improvements and rationalization of input use have improved the per-acre sugar yield of

---

[5] Ron Lord and R. Barry, "Changing Structure of the U.S. Refined Sugar Market," *Sugar and Sweeteners*, ERS, USDA, Sept. 1997.

[6] *Ibid.*

[7] USBSA and USCSRA's post-hearing brief, exhibit 7.

[8] Leo Polopolus and J. Alvarez, *Marketing Sugar and Other Sweeteners*, 1991, p. 55.

sugar beet production, although sugar yield remains dependent upon weather conditions. Mechanization and improved management have also increased the sugar recovery rate from sugar cane production. The U.S. beet sugar and cane sugar industries have improved their cost competitiveness according to one study of international production costs.[9] From 1979/80 to 1984/85, the United States ranked ninth in cost efficiency of producing beet sugar; during 1989/90 to 1994/95, it ranked second out of 38 countries. From 1979/80 to 1984/85, the United States ranked 37th in cost efficiency of producing cane sugar; during 1989/90 to 1994/95, it ranked 27th out of 62 countries. From 1979/80 to 1984/85, the United States ranked 35th in cost efficiency of producing sugar (cane and beet combined); during 1989/90 to 1994/95, it ranked 19th out of 96 countries.

U.S. production costs are slightly above the world average for cane sugar, but below the world average for beet sugar according to a study that estimated average production cost ranges for U.S. producers, the world's lowest cost producers, major exporters, and the world as a whole (see table II-1).[10] The U.S. industry's cost to convert sugar cane into raw sugar was about 80 percent of the non-U.S. world average, with the Florida industry's factory cost about 60 percent of the world average. However, high field costs made overall cane sugar costs higher in the United States than in the world as a whole. Relatively efficient field operations in Florida were 25 percent higher than the non-U.S. average. U.S. beet sugar costs were about 40 percent below the weighted world average. This study included a conversion of raw cane sugar costs to refined white cane sugar costs. This procedure revealed that the low-cost producers of cane sugar have a cost advantage of about 8¢ per pound over low-cost beet sugar producers, whose unit costs range between 19.69¢ per pound and 21.74¢ per pound. U.S. sugar production in fiscal year 1999/2000 is projected at 8.4 million short tons, raw value, which represents an increase of 4 percent over the 1998/99 level. Once sugar is produced from sugar beets and sugar cane, it has a fairly long shelf live; thus, stocks play an important role in balancing supply and demand. Ending stocks are the difference between beginning stocks plus production and imports less domestic deliveries and exports (see table III-A-1).

Government policy influences domestic supply. Production-side intervention is centered on the recourse and nonrecourse loan program administered by the Commodity Credit Corporation (CCC), as discussed in Part I. Because sugar beet processors and sugar cane millers that receive non-recourse loans agree to make minimum payments for sugar cane or sugar beets (based on sugar content), the program, in effect, establishes a minimum price at the grower level for sugar beets and sugar cane. Sugar beet and sugar cane growers benefit by being assured of at least receiving this price. The minimum price removes some production risk and has the effect of increasing and stabilizing the domestic production of sugar beets and sugar cane compared to the situation without the program.

[9] Martin Todd, "The International Cost Competitiveness of the US Sugar and HFCS Industries," 1997, cited in appendix 2 of the Substantive Response of USBSA and USCSRA.

[10] ERS, USDA, *Sugar and Sweetener, Situation and Outlook Report*, May 1998, p. 14.

Table II-1
Average production costs for raw cane sugar, white sugar equivalent of raw cane sugar, and beet sugar by producer categories

Product and producer category	Average cost range (*Cents/pound*)
Raw cane sugar:	
U.S. producing regions	14.15 to 22.09
Low-cost producers	8.04 to 9.91
Major exporters	11.15 to 15.17
World	14.53 to 16.52
Cane sugar, white value equivalent:	
U.S. producing regions	18.33 to 26.96
Low-cost producers	11.69 to 13.73
Major exporters	15.07 to 19.44
World	18.74 to 20.91
Beet sugar, refined value:	
U.S. producing regions	15.64 to 20.59
Low-cost producers	19.69 to 21.74
Major exporters	25.65 to 32.34
World	27.77 to 33.45

Source: ERS, USDA, *Sugar and Sweetener*, May 1998

Because these loans are to sugar beet processors and sugar cane millers, the loan program effectively establishes a floor price for refined beet sugar and raw sugar (and indirectly for refined cane sugar since it is interchangeable with refined beet sugar). The floor price is just high enough to give processors and millers an incentive to repay their loans. The TRQ program is administered to aid in maintaining this price floor. Disincentives, such as processor liability for any CCC losses on the sale of forfeited sugar and a forfeiture penalty under non-recourse loans, help to prevent forfeiture of sugar to the CCC. The resulting high domestic prices for both raw and refined sugar benefit the sugar beet processor, sugar cane miller, and sugar cane refiner.

II-4

The loan rate for refined beet sugar has a large enough differential over that for raw cane sugar that the refiner can profitably purchase raw cane sugar at the loan rate, refine it, and sell it to compete with refined beet sugar. The raw cane sugar TRQ restricts the availability of raw cane sugar for the refiners. In sum, the program benefits producers of both cane and beet sugar, although not equally. It is likely that without this program a greater proportion of refined sugar would be produced from imported raw cane sugar.

The 1996 Farm Act eliminated marketing allotments, and more efficient producers no longer have to limit their production to ensure market share to higher cost producers.[11] This change may have facilitated industry restructuring, as previously discussed. Farm policies have also contributed to a generally positive domestic production trend, as shown in table III-A-3 and figure III-A-1. The average annual growth rate of U.S. production between 1970 and 1998 was approximately 0.9 percent. Although figure III-A-1 shows some cyclic behavior, there was no pronounced business cycle (see appendix H).

U.S. SUPPLY OF IMPORTED SUGAR

As discussed in Part I, the sugar TRQ program and the safeguards system restrict the ability of foreign producers to access the U.S. market. The TRQ, which replaced former absolute quotas, is an important element of U.S. sugar policy and affects most U.S. sugar imports.[12] Each September the Secretary of Agriculture[13] announces the tier-I quotas, provided that they meet or exceed 1,117,195 metric tons for raw cane sugar and 22,000 metric tons for other sugars, syrups, and molasses, or 1.256 million short tons in total. Typically, some part of the total annual allocation that exceeds the minimum requirement is held back and divided into three segments or "tranches" to be allocated in January, March, and May. The domestic stocks-to-use ratio is monitored, and if this indicator exceeds 15.5 percent when an additional tranche is scheduled to be allocated that tranche is canceled, and the tier-I quota is effectively reduced by that amount. The tier-I quota is designed to permit imports to enter at favorable rates to meet consumption needs. In 1998/99, the initial tier-I quota was set at 1.78 million tons, and 1.284 million tons were allocated in September 1998. The remainder would have been allocated in three equal tranches in January, March, and May; however, the stock-to-use ratio exceeded 15.5 percent at each of those checkpoints, and each of those tranches was canceled, which effectively reduced the annual quota by 495,000 tons.

The higher tier-II tariffs, augmented by safeguards tariffs as explained in Part I, were designed to keep imports within the tier-I quotas and help maintain domestic prices high enough to prevent processors from defaulting on loans. The tier-II tariffs have generally been effective in restraining imports to the tier-I levels, but small amounts of over-quota sugar have entered and paid the over-quota tariffs (see table II-2).

---

[11] GAO, Commodity Programs: Impact of Support Provisions on Selected Commodity Prices, Feb. 1997, p. 17.

[12] There are some import programs besides the TRQ that permit sugar to enter the United States. The Refined Sugar Re-export Program, which has an import level in 1998/99 of 175,000 short tons, raw value (STRV), is one example. Another program is the Sugar Containing Products Re-export Program with imports of 200,000 STRV this sugar marketing year. Imports of 15,000 STRV that are used to produce polyhydric alcohol are also outside of the TRQ. Also, the sugar content of sugar syrups entering the United States under HTS heading 1702.90.4000 is estimated at 100,000 STRV this sugar marketing year.

[13] The Secretary of Agriculture presents proposals concerning the sugar TRQs to the Sugar Working Group, which is composed of agencies whose constituencies are affected by decisions concerning the TRQs. The group consists of representatives from the USDA, the State Department, the Department of Commerce, Treasury, the U.S. Trade Representative, OMB, the Council of Economic Advisors, and the National Security Council.

II-5

Table II-2
Tier-II (over-quota) imports of raw and refined sugar, by country groups, 1996-99

Source	1996	1997	1998	1999[1]	Total
	Quantity (short tons)				
Refined sugar					
EU countries	59	227	81	156	523
Nonsubject countries	3,407	484	1,007	11,015	15,912
Refined total	3,466	710	1,088	11,171	16,435
Raw sugar					
EU countries	33	40	50	0	123
Nonsubject countries	922	596	813	15,759	18,091
Raw total	955	637	863	15,759	18,214

[1] Includes data from January through May.

Source: Department of Commerce (refined sugar is HTS statistical reporting code 1701995000, and raw sugar is 1701115000).

There have been no over-quota imports from Canada, and only small entries from European countries. These entries have generally been a small percentage of all imports, but nonsubject entries in 1999 increased considerably compared with previous years. Guatemala and Brazil, which had no over-quota imports of refined sugar in 1996-98, accounted for the increase in refined sugar in 1999, with over-quota imports of 6,395 short tons and 3,859 short tons, respectively. Mexico, whose over-quota imports of raw sugar totaled 15,471 short tons in 1999, accounted for almost all of the over-quota entries of raw sugar in that year. The tier-I quotas were based on historical import levels, and Mexico was allocated a relatively small quota of 25,000 metric tons because its industry was late developing,[14] but under NAFTA provisions, Mexico's tier-I quota will be raised to 250,000 metric tons in 2001. Because Mexico does not have to pay the safeguard tariff and has a lower tier-II tariff than other countries, it can import over-quota quantities at lower additional tariffs than any other country.

[14] Magnolna Kornis, "Dispute Continues over Access of Mexican Sugar to the United States and U.S. Access of High Fructose Corn Syrup to Mexico," *International Economic Review*, USITC, Nov.-Dec. 1998.

II-6

Before the quota system was in place,[15] the antidumping and countervailing duty orders restrained imports into the United States from the subject countries. Tables I-1A, I-2A, and I-3A show imports from the subject countries in the late 1970s when the orders were published. Imports from the EU, including Belgium, France, and Germany, dropped dramatically after imposition of the order (see also table IV-2). Rogers Sugar stated that the antidumping order had no effect on its imports.[16]

European Union Including Belgium, France, and Germany

Internal agricultural policies affect exports from the EU and its member states. The main features of the EU's sugar policy are import restrictions with limited free access to certain suppliers, internal support prices that ensure returns to producers for a fixed quantity of production and permit maintenance of its refining capacity, and export subsidies for quantities of sugar produced in the EU. Current policies are expected to remain in effect through marketing year 2000/01. The EU is the world's largest producer of beet sugar and a large exporter. Its production and consumption balances are shown in Part IV of this report. EU production is regulated through a two-tiered quota system, as discussed in Part I. These production quotas for subject European countries during 1998/99 are shown in table II-3.

Table II-3
EU sugar production quotas for 1998/99

Member state or region	A sugar quota	B sugar quota
	Quantity *(metric tons, white sugar)*	
Belgium/Luxembourg	680,000	146,000
Germany (former F.R.G.)	1,990,000	612,313
Germany (former G.D.R.)	647,703	199,297
France (metropolitan)	2,530,000	759,233
France (overseas)	466,000	46,600
Other	5,669,053	846,212
Total	11,982,756	2,609,655

Source: Danielle Borremans, Sugar Market Country Report, U.S. Mission to the European Union, March 29, 1999.

[15] On May 5, 1982, the President modified the Section 22 fees on sugar and established country-by-country import quotas.

[16] The initial antidumping rate for Rogers Sugar was 1¢ per pound, and it has been zero since 1982. Fluctuations in imports from Canada are attributable to other factors. Rogers Sugar's post-hearing brief, p. 3.

II-7

The EU Commission reviews the allocations periodically and examines whether producers have filled their quotas in previous years. To avoid any possible reductions in quota, many suppliers exceed their given quotas to offset any unexpected downturns in production. The system thus encourages over-quota production, which is called C sugar. Over-quota C sugar is sold on world markets without any direct subsidy or carried over to the next year. When world prices rise, C sugar production tends to increase as the world price becomes more attractive. Large beet crops led to high C sugar supplies in 1997/98. France, Belgium, and the United Kingdom were able to lower C sugar supplies in 1998/99.

Prices for sugar in the EU are also controlled. A minimum price is established that sugar manufacturers must pay for beets to process into sugar. An "intervention price" is established that is the minimum price of sugar in the EU. The intervention price is increased in areas that typically produce few beets to encourage production in those areas. Controls on imports help move the actual market price towards the "target price," which is set above the intervention price. Besides the regular import duties listed in the Common Customs Tariff, additional duties, whose rates are frequently revised, are imposed when world import prices fall below a certain level. These import tariffs from January 1, 1999, to June 30, 1999, were 367 euro per metric ton for raw sugar and 454 euro per metric ton for other raw and refined sugar. This system of frequently varying tariffs has effectively shut out imports except from countries that receive special treatment, such as India and beneficiaries of Protocol 8 of the Lomé Convention, although imports from these countries are quite large.

It is surprising that the EU is the world's second largest exporter of sugar given that its internal prices are above the world price. Export subsidies are a major reason for the EU's high level of exports. EU commitments under the GATT Uruguay round limited the volume and value of its export subsidies (see table I-5 in Part I). Although actual subsidized exports were less than the commitments in previous years, commitments appear to have been exceeded in 1997/98.[17] Average per-pound export refunds were 25.4¢, 22.7¢, and 22.4¢, respectively, in marketing years 1995/96, 1996/97 and 1997/98.[18]

The EU has both subsidized and unsubsidized sugar exports. When C sugar supplies are high, unsubsidized exports increase, although it may also reduce the area planted in sugar beets the following sugar year. Unsubsidized exports are possible as Belgium, the Netherlands, and the United Kingdom are among the world's lowest-cost producers of beet sugar.[19] Tier-II and safeguard tariffs make it prohibitive for EU states to ship over-quota amounts of C sugar to the United States. As noted, C sugar supplies were down in 1998/99 from the high levels of the previous year. Preliminary production forecasts for 1999/2000 show a potential rise in C sugar supplies of about 700,000 metric tons; therefore total sugar exports are projected to rise by this amount.

The projected lower harvest in 1998/99 (compared with the previous year) is expected to result in lower exports, although exports are still forecast to be high due to a carryover of C sugar. EU exports are forecast to increase by 13 percent to 6.0 million tons in crop year 1999/2000.[20] The EU's main export markets are in the Middle East and North Africa. Its five largest customers were Algeria, Syria, Israel, Iran, and Russia in 1997/98.

Besides the aforementioned interventions, EU member states are authorized to grant national aid in certain regions where it is difficult to maintain beet and cane production. Most of this assistance is in Italy, Spain, and the overseas departments of France. National aids are being phased out and will be abolished in 2001/02.

---

[17] Danielle Borremans, Sugar Market Country Report, U.S. Mission to the European Union, Mar. 29, 1999.

[18] Calculated from the EU Commission's response to the Department of Commerce in this case.

[19] ERS, USDA, *Sugar and Sweetener, Situation and Outlook Report*, May 1998.

[20] FAS, USDA, *World Sugar Situation*, May 1999.

II-8

The government support given to the sugar sector in the EU has significantly increased its production of beet sugar and raised its internal prices for all sugar. It has also greatly altered its trade balance in sugar and resulted in the EU becoming a major exporter of sugar.

Canada

Alberta is the foremost beet-producing province in Canada. In crop year 1998/99, an estimated 16,731 hectares were planted in sugar beets in this province, which represents almost a 24 percent increase above the level of the previous year. In 1997, Rogers Sugar announced a 5-year agreement with the Alberta Sugar Beet Growers Marketing Board to increase the area planted in sugar beets to 20,250 hectares by 1999. This increase coincides with Rogers Sugar's modernization and expansion of its Alberta sugar-beet processing facility, which is the only beet sugar processing facility in Canada. Rogers Sugar's total capacity for sugar beet processing at the end of 1998 was approximately ***, and it will be approximately *** by the end of 1999.[21] Failure to operate as planned left Alberta Sugar Beet Growers concerned that the newly renovated plant may actually lead to a slight reduction in the area planted. In early 1999, Rogers Sugar announced that it had reached a one-time agreement with the Alberta Sugar Beet Growers Marketing Board about the volume of sugar beets that would not be processed due to a late start at that plant.[22]

Production and consumption data are shown in Part IV, table IV-5. Canadian sugar production, which fell from 158,000 short tons, raw value in 1996/97 to 105,000 short tons in 1997/98, and partially recovered to 121,000 short tons (estimated) in 1998/99,[23] is forecast to increase to 138,000 short tons in 1999/2000.[24] The production total is for beet sugar only. It does not include any production from the sugar beets grown in Ontario, as this entire crop of 2,632 hectares in 1998/99 is produced under contract for Michigan Sugar and will be processed into sugar in Michigan. Although Canada does not produce raw cane sugar, it refines imported raw cane sugar in plants, such as the Redpath plant in Toronto and Lantic plants in Montreal and St. John. Canadian sugar demand is met primarily through Canadian processing of imported raw cane sugar, given its relatively small production of sugar beets. It exports some of its production of refined sugar, but does not export raw sugar. Canada's imports of raw cane sugar come primarily from Australia.

In October 1995, Canada determined that the United States, Denmark, Germany, the Netherlands, the United Kingdom, and Korea were dumping refined sugar in Canada and that the EU was exporting subsidized sugar to Canada. In November 1995, they determined that the dumped and subsidized imports threatened material injury to the Canadian industry and imposed duties. Despite the antidumping duty, the United States has remained the main exporter of refined sugar to Canada. Canadian imports of refined sugar dropped from 122,619 metric tons in crop year 1994/95 to 30,945 metric tons in crop year 1995/96 after imposition of the dumping and subsidy orders. Since then, Canadian imports first dropped further, but have since reversed trend and begun to increase.

Canadian exports of refined sugar have followed a similar trend as Canadian imports of refined sugar. They have decreased since imposition of the dumping and subsidy orders as more production is consumed at home. Entry of refined Canadian sugar into the United States is primarily influenced by the U.S. TRQ. The terms of the agreement to allocate the Canadian portion of the refined sugar TRQ only

[21] Foreign producers' questionnaire from Rogers Sugar.

[22] FAS, USDA, *Situation and Outlook in Selected Countries*, 1999.

[23] See table IV-5.

[24] FAS, USDA, *Situation and Outlook in Selected Countries*, 1999.

II-9

permit entry of sugar produced from sugar beets processed in Canada; thus the Redpath and Lantic plants, which refine imported raw sugar, no longer export Canadian sugar to the United States, although the AD orders on these firms were revoked prior to this ruling. The United States is Canada's largest export market.

Although the Canadian Government intervenes some in its sugar sector, Canada has one of the world's most freely traded sugar markets.[25] Intervention on the production side is minimal, and the primary controls on imports are the antidumping and subsidy orders. The result, as previously stated, is that most Canadian demand is met by refining imported raw sugar.

Non-Subject Imports

Non-subject sugar production is large. Total world sugar production is forecast at a record 131.3 million metric tons for 1999/2000, an increase of 2 percent from the previous season.[26] This forecast is the sixth consecutive year of increases in world sugar production. Production in India, the world's third largest producing country, is forecast to increase by 6 percent, or by 1.0 million metric tons. In Brazil, the world's largest producer, sugar production is forecast at 19.0 million metric tons, an increase of 4 percent over the previous year.

Non-subject countries include the world's lowest-cost producers of raw cane sugar, and the low-cost producers of cane sugar produce sugar at a lower cost than the low cost producers of beet sugar, as previously stated.[27] The world's low-cost producers of raw cane sugar are Brazil, Colombia, Guatemala, Malawi, and Zambia, and they account for about 9 percent of world production. Their production costs range between 8.04¢ per pound and 9.91¢ per pound.[28] Exports from these countries are primarily raw cane sugar, but they also have the capability to refine sugar.

World sugar trade is forecast at 34.8 million metric tons in 1999/2000, slightly above 1998/1999 levels. The EU, Brazil, and Australia are expected to account for the increase.[29] Exports from South Africa, Cuba, Guatemala, and Thailand are expected to be down in 1999/2000. Brazil, the EU, Australia, and Thailand are the world's leading exporters. Large exporters face a choice between maintaining stocks or exporting at low world prices.

Brazilian exports for 1998/99 were revised up to 8.55 million metric tons, based on a large domestic surplus.[30] Despite low world prices, export prices compared favorably to domestic Brazilian sugar prices in early 1999. Devaluation of the Brazilian currency has countered somewhat the low world prices. Brazil's main export market is Russia, but the United States, the United Arab Emirates, and Egypt are also important.

Despite a few downturns, world production levels have followed a distinct upward trend for the past 30 years (see figure II-1). The mean growth rate for this period was approximately 2.1 percent per

---

[25] One measure of government intervention is the national retail price of sugar, which is also influenced by cost, geography, and market structure. The average price in member countries of the Organization for Economic Cooperation and Development other than the United States was 60¢ per pound. Most EU countries were above this average, while Canada and Australia's prices were the lowest at 33¢ per pound. The U.S. retail price at 41¢ per pound was lower than any European country. USBSA and USCSRA post-hearing brief, exhibit 10.

[26] FAS, USDA, *World Sugar Situation*, 1999.

[27] *Ibid.*

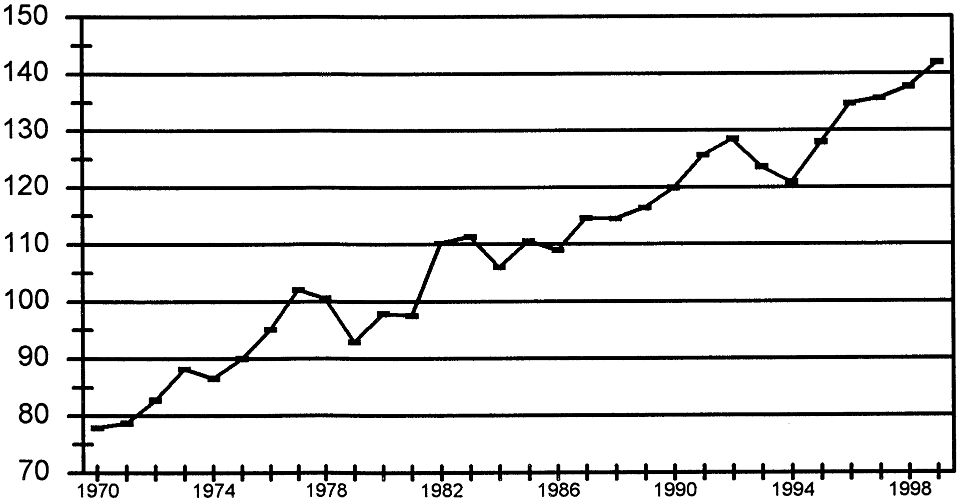
[28] FAS, USDA, *Sugar and Sweetener Situation and Outlook Report*, May 1998.

[29] *Ibid.*

[30] FAS, USDA, "Situation and Outlook and Selected Countries," http://ffas.usda.gov/htp/sugar, May 1999.

II-10

Figure II-1
World sugar production in millions of short tons, raw value, 1970-99[1]



[1] Figures for 1999 represent the first quarter only.

Source: *Sugar and Sweetener*, USDA, various issues.

year. A simple linear time trend accurately describes the behavior of world production levels for this period (see appendix H). Population growth and increased consumption in developing countries, including India and China, explain part of this increase.

Non-subject production is large and could potentially supply a substantial share of the U.S. market. Access to the U.S. market is, however, controlled through the sugar tariff-rate quota and the safeguards mechanism; tier-I quantities were allocated largely to historical suppliers rather than to new entrants. Subject and non-subject countries compete on a first come, first served basis for the unallocated refined sugar portion of the TRQ. Given the homogeneous nature of sugar, whether that refined sugar portion of the TRQ is supplied by subject or non-subject countries would appear to make little difference on prices and quantities of sugar in the U.S. market. In either case, imports are expected to be near the quota break point, and the equilibrium price associated with that quantity is expected to be the same regardless of the country of origin of the supplier.

U.S. DEMAND

Sugar is consumed both industrially as an intermediate product and as a final consumer product. Consumption of sugar as a final product is determined by people's tastes and preferences, the price of sugar, the price of substitute products, and consumers' budget constraints. Consumption as an intermediate product is determined by the demand for final products containing sugar and the price of substitutes in those particular uses. Yearly consumption levels of sugar have been relatively steadier than yearly production levels. Unlike domestic production, which experienced a positive trend over the past 25 years, domestic sugar consumption has declined slightly. The average rate of change for U.S. sugar

II-11

consumption was -0.2 percent per year between 1975 and 1998. Total domestic consumption of refined sugar generally declined from 1976 to 1986, a period when HFCS came into widespread use.[31] Since 1986, total domestic consumption of refined sugar, aided by population growth, has recovered somewhat and is approaching levels seen in the 1970s; this has occurred despite a continuing increase in the consumption of HFCS. Non-caloric sweeteners have gained in popularity as some people have become more diet conscious.[32] Per-capita sugar consumption declined by approximately 25 percent between 1975 and 1998 (see table II-4). Despite the decreases between 1975 and 1986 and then the partial recovery, yearly consumption levels have been relatively steady.

The food processing industry is the primary consumer of sugar, although grocery stores sell some sugar directly to final consumers. The food processing industry uses sugar in baked goods, candies, ice cream, baby food, and other products. Since 1980, baked goods and related products have accounted for an increasing share of sugar use (see table II-5). Sugar use by the beverage industry has markedly decreased, and this industry now is the major consumer of HFCS. Shares accounted for by the other major categories have been relatively constant, but confections and related products and non-industrial use, which primarily includes grocery-store sales, have increased somewhat.

Generally, the cost of sugar is a relatively low percentage of the value of the final product, although there are exceptions, such as confectionary products that are primarily sugar. *** reported that sugar represents *** percent of the costs of snack bread and dessert mixes and *** percent of the cost of cookies. *** reported that sugar represented less than *** percent of the cost of baby food. *** reported that sugar represents *** percent of the cost of ice cream and *** percent of the cost of novelty products. *** reported that sugar represents *** percent of the cost of snack cakes. *** stated that sugar is *** percent of its cost of baked goods. Final consumers purchase sugar for baking and other sweetening needs that are similar to industrial uses, and sugar would be expected to represent a similar percentage of the cost of household-produced goods.

Purchasers identified the following products as substitutes for sugar: corn products, including HFCS, glucose syrup, dextrose, and corn syrup solids; low-calorie sweeteners, including aspartame; and sugar-containing fruit juices such as grape and pear juice. *** added that, although these products are potential sugar substitutes, they are inadequate substitutes for the mix of end products that it makes. *** added that these were not good substitutes for bulk sugar.

[31] The HFCS industry benefits from the high sugar prices maintained by the U.S. sugar program; HFCS may not have price advantages in countries with low sugar prices. A representative from Rogers Sugar asserted that it sells sugar to the soft drink industry in Canada (hearing transcript, p. 125). HFCS apparently has a cost advantage over Mexican sugar, as Mexico has imposed antidumping duties on U.S. imports of HFCS into Mexico at the behest of its sugar industry.

[32] Staff were unable to obtain a data series on non-caloric sweeteners.

II-12

Table II-4
U.S. sweetener consumption, by types, 1975-98

Total in millions of short tons dry weight, per capita in pounds dry weight per person

Year	Refined sugar (total)	Refined sugar (per capita)	HFCS (total)	HFCS (per capita)	Glucose syrup (total)	Glucose syrup (per capita)	Dextrose (total)	Dextrose (per capita)
1975	9.63	89.2	0.54	5.0	1.89	17.5	0.54	5.0
1976	10.18	93.4	0.78	7.2	1.91	17.5	0.54	5.0
1977	10.37	94.2	1.05	9.5	1.94	17.6	0.45	4.1
1978	10.18	91.4	1.35	12.1	1.98	17.8	0.42	3.8
1979	10.05	89.3	1.67	14.9	2.02	17.9	0.40	3.6
1980	9.52	83.6	2.05	18.0	2.00	17.6	0.40	3.5
1981	9.13	79.3	2.55	22.2	2.05	17.8	0.40	3.5
1982	8.56	73.6	3.10	26.7	2.09	18.0	0.41	3.5
1983	8.33	71.0	3.65	31.1	2.11	18.0	0.41	3.5
1984	8.01	67.6	4.43	37.3	2.13	18.0	0.41	3.5
1985	7.58	63.4	5.39	44.6	1.92	15.9	0.42	3.5
1986	7.35	60.8	5.50	45.1	1.95	16.0	0.43	3.5
1987	7.61	62.4	5.79	47.1	1.99	16.2	0.44	3.6
1988	7.63	62.0	6.00	48.3	2.04	16.4	0.45	3.6
1989	7.74	62.2	5.96	47.5	2.10	16.7	0.46	3.7
1990	7.84	62.4	6.23	49.1	2.21	17.4	0.48	3.8
1991	8.26	64.4	6.40	49.9	2.33	18.2	0.49	3.8
1992	8.48	65.5	6.67	51.4	2.32	17.9	0.50	3.8
1993	8.54	65.2	7.11	54.3	2.38	18.2	0.50	3.8
1994	8.71	65.2	7.41	56.1	2.44	18.4	0.51	3.9
1995	8.83	66.2	7.66	57.4	2.50	18.7	0.53	3.9
1996	8.98	66.7	7.98	59.3	2.51	18.6	0.54	4.0
1997	9.12	67.1	8.44	62.2	2.74	20.2	0.51	3.8
1998	9.21	67.2	8.82	64.3	2.72	19.8	0.51	3.7

Source: Calculated from data provided by *** of ERS, USDA, June 17, 1999, and from ERS, USDA, *Sugar: Background for 1985 Farm Legislation.*

II-13

Table II-5
U.S. sugar use by type of product, by selected years

Type of product	1980	1985	1997	1998[1]
	Share of total use (*percent*)			
Baked goods and related products	14	20	24	25
Confections and related products	10	14	15	15
Beverages	23	5	2	2
Other industrial use	16	18	17	19
Total industrial use	63	57	58	61
Non-industrial use	37	43	42	39
Total food use	100	100	100	100

[1] Data only available for first 2 quarters of 1998.

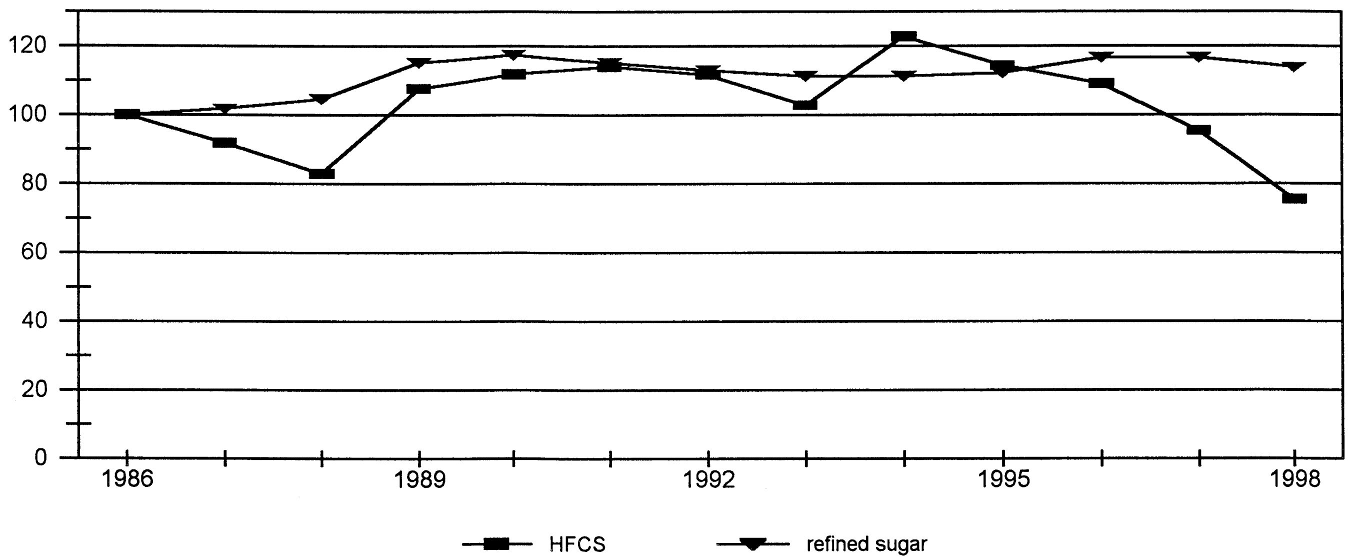
Sources: "Sugar Market Statistics," National Agricultural Statistics Service; "Sweetener Market Data," Farm Service Agency, USDA.

Figure II-2 shows domestic producer price indexes for refined sugar and HFCS from 1986 to 1998. Refined sugar prices rose some 14 percent between the beginning and end of this period. HFCS prices increased by 23 percent between 1986 and 1994 and have since fallen approximately 38 percent. The substitution of HFCS for sugar, particularly in the beverage industry, has been well documented in the professional literature. There remains some question, however, regarding whether this substitution is complete or still occurring.

Figure II-3 shows yearly real prices in cents per pound for glucose syrups and dextrose. Prices for glucose syrup and dextrose rose less than the general inflation level and declined approximately 19 percent and 16 percent, respectively, in real terms during 1985-98. As was shown in table II-4, the total consumption of glucose syrup generally increased from 1975 to 1998 but still remained below the levels of refined sugar and HFCS. Consumption of dextrose changed little between 1975 and 1998.

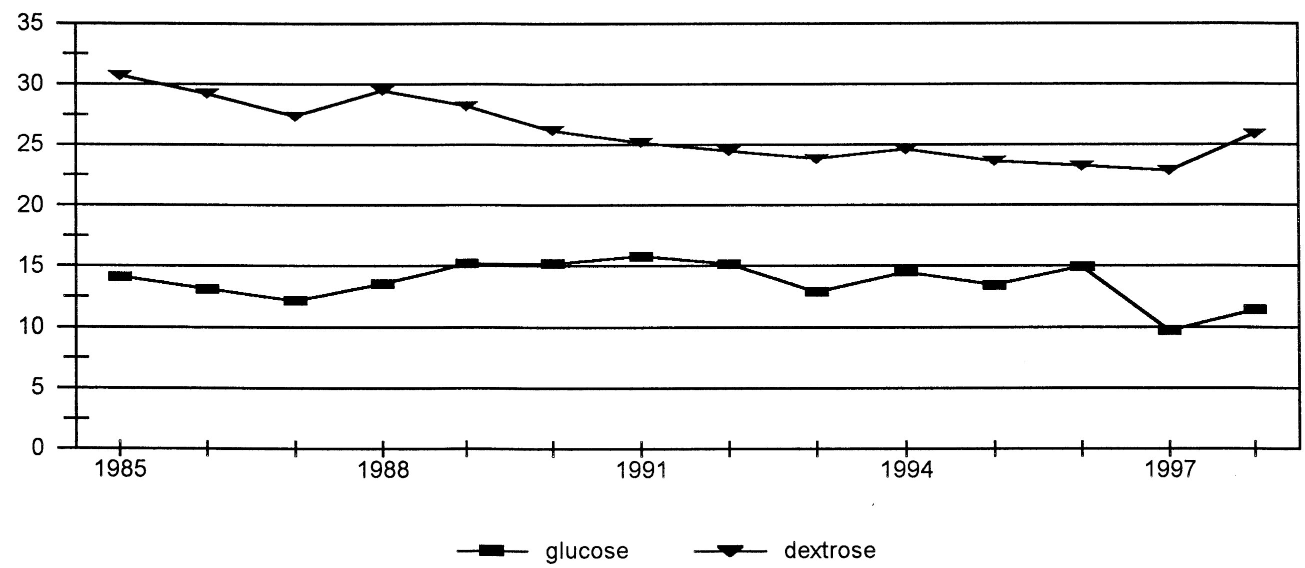
II-14

Figure II-2
Producer price indexes of high fructose corn syrup and refined sugar, 1986-98 (1986=100)



Source: Bureau of Labor Statistics.

Figure II-3
Real prices (in 1992 dollars) of glucose syrup and dextrose, 1985-98



Source: USDA, ERS, *Sugar and Sweetener Yearbook*, May 27, 1999.

II-15

SUBSTITUTABILITY ISSUES

The Commission's questionnaire requested that purchasers identify the most important factors that they consider when making a purchase decision. Purchasers responded that price, quality, and service are the most important factors in deciding from whom to purchase. Purchasers were also asked to rate a number of factors in terms of their importance when making a purchase decision. Availability, delivery time, low price, product consistency, product quality, reliability of supply, and transportation costs were ranked as very important. Minimum quantity requirements, packaging, and product range received lower importance ratings (see table II-6).

Table II-6
Ratings of importance of factors in the purchase decision by number of firms

Factor	Very important	Somewhat important	Not important
Availability	9	0	0
Delivery terms	6	3	0
Delivery time	7	2	0
Discounts	4	3	1
Low Price	7	2	0
Minimum quantity requirements	2	2	5
Packaging	4	3	2
Product consistency	9	0	0
Product quality	9	0	0
Product range	4	3	2
Reliability of supply	8	1	0
Technical support/service	4	4	1
Transportation network	4	5	0
Transportation costs	7	2	0

Source: Compiled from data submitted in response to Commission questionnaires.

Many purchasers reported that they only bought domestic sugar, and few purchasers reported buying subject and non-subject imports. Most purchasers were thus unable to compare domestic and imported sugar. Purchasers were asked if their firms made purchasing decisions for sugar based on the country of origin. Two purchasers reported that they sometimes make decisions on this basis, and another firm reported that it usually considers the country of origin when purchasing. Nine firms reported that they never base purchase decisions on country of origin. Two reporting firms always make decisions based on

II-16

country of origin. One of these stated that it only buys domestic sugar, and the other stated that it is aware of import restraints and only operates from a domestic supply base.

Three firms responded to the Commission's question about whether imported and domestic sugar are used in the same applications. One firm stated that they were generally used in the same applications but that it sometimes had to screen imports for impurities. Another firm reported that U.S. and Mexican sugar were used in the same applications. The other firm responding to this question reported that sugar from Canada, France, Germany, the United Kingdom, and the United States were all used in the same applications. A representative from United Sugar reported that the quality of Canadian and European sugar was high and that it is interchangeable with the U.S. product.[33]

Firms were asked if they ever ordered from one country in particular over other possible sources of supply, and three firms responded in the negative. The lone dissenting firm responded that contaminant issues may be associated with country of origin.

ELASTICITIES

Because Canada and the subject European countries have extremely low value shares of U.S. consumption, the COMPAS model was not used. Elasticities are briefly discussed.

A range of supply elasticities have been estimated in empirical work. Lopez estimated the price elasticities of supply for cane sugar and beet sugar to be, respectively, 0.231 and 0.479 in the short run, and 0.579 and 1.201 in the long run. Gemmill estimated the U.S. cane supply elasticity at 1.57 and the beet supply elasticity at 1.74.[34] Relatively inelastic estimates have resulted from the proportion of fixed factors in the production set and the difficulty in adjusting. Staff considers the aggregate domestic beet and cane sugar supply elasticity to range between 0.35 and 1.35.

Gemmill estimated the foreign cane sugar supply elasticity to range from 0.3 to 1.0. Lopez estimated the excess supply elasticity of quota-holding countries to be 0.05, which was significant at the 5 percent level. Leu, Schmitz, and Knutson estimated an import supply elasticity for the rest of the world, not just quota-holding countries, at 2.37 assuming a larger proportion of unrestricted trade.[35] Boyd et al used a vertical import supply curve. In stark contrast, Marks considers import supply elasticity to be 13.2 for the conditions that prevailed in the 1980s. Staff considers the import supply curve to have the shape of a supply curve with a TRQ; it will slope upward to the quota break point, where it will become vertical to account for imposition of the over-quota tariff. After this point the supply curve will resume its same upward slope. Staff considers the upward sloping portions of the supply curve to have an elasticity between 2 and 12.

Although demand elasticities have varied by study, most have tended to be rather inelastic. This could be because sugar costs in final products are small, although there are some substitutes, or simply because people continue to purchase similar quantities of sugar and sugar-containing products despite price changes. Lopez estimated the price elasticity of demand to be -0.111 in the short run and -0.597 in the long run. Lopez and Sepulveda estimated non-industrial demand for all sweeteners to be -0.16 and industrial

[33] Hearing transcript, p. 25.

[34] Gordon Gemmill, "An Equilibrium Analysis of U.S. Sugar Policy," *American Journal of Agricultural Economics*, Nov. 1977, p. 609.

[35] G.J. Leu, A. Schmitz, and R.K. Knutson, "Gains and Losses of the Sugar Program and Policy Options," *American Journal of Agricultural Economics*, vol. 69, 1987, pp. 591-602.

II-17

demand to be -0.15 before the introduction of HFCS and to be -0.04 afterwards.[36] Others have found the own-price elasticity of demand to vary between -0.07 and -0.24. Uri, in one of the more carefully done studies, took into account different rates of substitution between HFCS and sugar demand in beverage and non-beverage uses. He found the own-price elasticity of demand to be -0.85 for beverage sugar and -0.48 for non-beverage sugar between 1978 and 1984, when HFCS was being introduced into the market on a large scale. From 1985 to 1995, after the introduction of HFCS was complete, he found the elasticity of demand for beverage sugar to be -1.01 and that for non-beverage sugar to be -0.53.[37] In current conditions when HFCS has largely displaced sugar in the beverage industry, the non-beverage elasticity, which includes uses as an intermediate and a final product, is most relevant. Boyd et al used -0.2 from a GAO study as an average demand elasticity and performed sensitivity analysis using -0.05 and -0.62 as high and low ranges. Staff consider the elasticity of demand to range between -0.2 and -0.8 for this study.

Domestic and imported sugar have generally been modeled as perfect substitutes given their homogeneous nature and the similarity of the same type of sugar from different sources. For example, Schmitz and Christian,[38] Marks,[39] Boyd,[40] and Lopez all used perfect-substitutes models to examine the relationships between imported and domestic sugar. Consistent with previous work, staff considers the perfect substitutes assumption to be valid.

---

[36] R. Lopez and J.S. Sepulveda, "Changes in Demand for Sugar and Implications for Import Policy," *Northeastern Journal of Agricultural and Resource Economics*, vol. 14, 1985, pp. 177-182.

[37] Noel D. Uri, "Estimating the U.S. Demand for Sugar in the Presence of Measurement Error in the Data" *Journal of Policy Modeling*, vol. 17(1), 1995, pp. 59-83.

[38] Andrew Schmitz and Douglas Christian, "The Economics of U.S. Sugar Policies," in *The Economics and Politics of World Sugar Policies*, 1993, pp .49-78.

[39] Stephen Marks, "A Reassessment of Empirical Evidence on the U.S. Sugar Program," in *The Economics and Politics of World Sugar Policies*, 1993, pp .79-108.

[40] Roy Boyd, K. Doroodian, and Power, "The Impact of Removing the Sugar Quota on the U.S. Economy: A General Equilibrium Analysis," *Journal of Policy Modeling*, vol. 18(2), 1996, pp. 185-201.

II-18

PART III-A: U.S. PRODUCERS' OPERATIONS

SUGAR BEET PROCESSORS AND CANE SUGAR REFINERIES

Data provided by U.S. processors and refineries on their production, sales, employment, and profits are presented in Part III.[1] USDA data for U.S. sugar consumption and production balances for fiscal years 1996/97 and 1997/98, with estimates for 1998/99 and projections for fiscal year 1999/2000, are shown in table III-A-1. Selected summary data gathered during the original investigations are shown in tables I-1A through I-3A.

Related Parties

Five of the domestic cane sugar refineries also submitted importers' questionnaires. They include ***. Domestic refineries import raw cane sugar under the TRQ to supplement domestic supplies.

Domino Sugar, a cane sugar refiner, and Western Sugar, a sugar beet processor, are both subsidiaries of Tate and Lyle PLC, a global sugar producer.[2] Refined Sugars, a refinery located in Yonkers, NY, was owned by Lantic Sugar prior to December 1998.[3] No other U.S. processors or refiners are believed to be owned by, or related to, foreign sugar producers.

Changes to Company Operations

U.S. processors and refineries were asked to document changes to company operations or interruptions to production since 1978, the year that the first order under review became effective. The responses are listed below.

Sugar Beet Processors

* * * * * * *

Cane Sugar Refineries

* * * * * * *

---

[1] Summary data combining sugar beet processors and cane sugar refineries are presented in table C-1; tables C-2, C-2A, and C-2B present data on sugar beet processors; table C-3 presents data on cane sugar refineries; tables C-4A and C-4B present data on sugar cane mills; table C-5 presents data on sugar beet growers; tables C-6A and C-6B present data on sugar cane growers, broken out regionally; and tables C-7A, C-7B, and C-7C estimate consumption based on the scopes, domestic like products, and industries found in the original investigations.

[2] During the period for which the Commission collected data, Domino Sugar's profit margins ***; ***, Western Sugar's profit margins ***.

[3] Refined Sugars is currently owned by two U.S. sugar cane millers, Okeelanta Corp. and the Sugar Cane Growers Cooperative of Florida. (See Part I, U.S. cane sugar refineries). During the period for which the Commission collected data, Refined Sugars' profit margins ***.

III-A-1

Table III-A-1
U.S. sugar production and consumption balances, fiscal years 1996/97-1999/2000[1]

Item	1996/97	1997/98	1998/99 estimates	1999/2000 projections
	Quantity *(1,000 short tons, raw value)*			
Beginning stocks	1,492	1,488	1,679	1,629
Production	7,205	8,020	8,073	8,400
Beet sugar	4,013	4,389	4,225	4,530
Cane sugar	3,191	3,631	3,848	3,870
Total imports	2,774	2,163	2,027	([2])
Exports[3]	211	179	175	175
Total domestic deliveries[4]	9,772	9,813	9,975	10,150
Ending stocks	1,488	1,679	1,629	([2])
Stocks to use ratio[5] (percent)	14.9	16.8	16.0	([2])

[1] Fiscal year begins Oct. 1.
[2] Not available.
[3] Consists mostly of re-exports.
[4] Total domestic deliveries is domestic consumption plus sugar re-exported in products and sugar used for polyhydric alcohol and livestock feed. Re-exports, polyhydric alcohol, and livestock feed account for approximately 1-2 percent of the total.
[5] "Use" is total domestic deliveries plus exports.

Source: 1996/97 data from USDA, Sugar & Sweetener Yearbook, May 1999; data for the other periods from USDA, World Agricultural Supply and Demand Estimates, WASDE-350-May 12, 1999.

U.S. PROCESSORS' AND REFINERIES' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data from Commission questionnaires regarding U.S. production, capacity, and capacity utilization of sugar beet processors and sugar cane refineries are presented in table III-A-2. Information in this section is based on the responses of 12 firms that accounted for approximately 100 percent of U.S. production in 1998. Historical data from USDA on U.S. production is listed in table III-A-3.[4]

[4] U.S. production based on Commission questionnaires does not match production data from USDA for two reasons. The first is that USDA production data has been converted into a raw sugar equivalency (96 degrees) rather than listed as refined sugar, as presented in the Commission's processors'/refiners' questionnaires. The second is that cane sugar refineries also refine raw sugar imports, which are not separated from production totals in Commission questionnaires. Sugar refined in the United States from imported raw sugar is not considered by Customs and USDA to be U.S. product.

III-A-2

Table III-A-2
Refined sugar: Capacity, production, and capacity utilization for U.S. sugar beet processors and cane sugar refineries, 1997-98, and January-March 1998 and 1999

Item	1997	1998	January-March 1998	January-March 1999[1]
Capacity *(1,000 short tons)*	10,445	10,435	2,890	2,885
Production *(1,000 short tons)*	8,827	8,893	2,446	2,477
Capacity utilization *(percent)*	84.5	85.2	84.7	86.1

[1] ***, capacity utilization is calculated using data of firms providing both numerator and denominator information.

Source: Compiled from data submitted in response to Commission questionnaires.

As shown in table III-A-2, average production capacity remained flat between 1997 and 1998 and during the interim periods. Production and capacity utilization rose marginally. Data compiled by USDA show that U.S. sugar production has increased since the original orders were implemented, starting in 1978. Increases came from both the cane and beet sugar sectors of the domestic industry. (See table III-A-3 and figure III-A-1.)

U.S. PROCESSORS' AND REFINERIES' DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

As shown in table III-A-4 , U.S. processors' and refineries' U.S. shipments (as reported in the Commission's questionnaires) declined 0.1 percent in quantity and 4.2 percent in value from 1997 to 1998. The average unit value declined 4.1 percent, from $586 per short ton to $561 per short ton. Export shipments accounted for 1.9 percent of the quantity of total shipments in 1998, and declined from the 1997 level along with total shipments. During the interim periods, the quantity and value of U.S. shipments rose slightly, but the average unit value declined 1.1 percent, from $567 per short ton to $561 per short ton.

U.S. PROCESSORS' AND REFINERIES' INVENTORIES

End-of-period inventories declined slightly from 1997 to 1998 and the ratios of inventories to production, U.S. shipments, and total shipments also declined slightly. Between the first quarter of 1998 and the first quarter of 1999, the three ratios also declined slightly as shipments and production rose to a greater degree than inventories. See table III-A-5.

III-A-3

Table III-A-3
U.S. production of beet sugar and cane sugar, 1978-98[1]

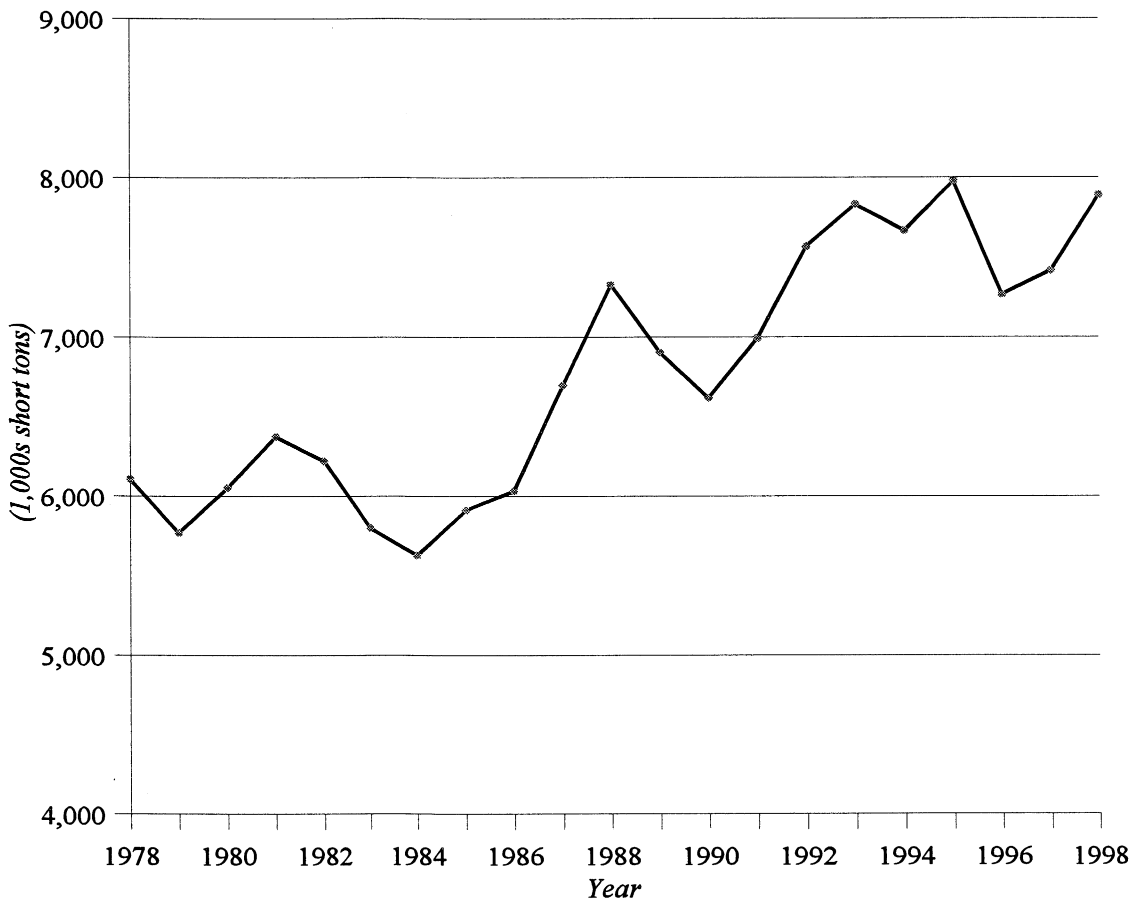
Year	Production *(1,000 short tons, raw value)*
1978	6,105
1979	5,772
1980	6,054
1981	6,374
1982	6,221
1983	5,800
1984	5,629
1985	5,912
1986	6,033
1987	6,697
1988	7,331
1989	6,905
1990	6,618
1991	6,994
1992	7,569
1993	7,831
1994	7,669
1995	7,978
1996	7,268
1997	7,418
1998	7,891

[1] Production data for 1978-91 is on a crop year basis, not a calendar year basis. Crop year is September/August.

Source: ***Sugar: Background for 1985 Farm Legislation*****, USDA;** ***Sugar and Sweetener*****, USDA--June 1993, December 1998, and May 1999.**

III-A-4

Figure III-A-1
U.S. production of beet sugar and cane sugar, 1978-98



Source: *Sugar: Background for 1985 Farm Legislation*, USDA; *Sugar and Sweetener*, USDA--June 1993, December 1998, and May 1999.

U.S. PROCESSORS' AND REFINERIES' EMPLOYMENT, WAGES, AND PRODUCTIVITY

As shown in table III-A-6, the average number of production and related workers (PRWs) declined marginally between 1997 and 1998. Total PRWs also declined 2.3 percent between the first quarter of 1998 and the first quarter of 1999. Hourly wages rose 2.9 percent over the two-year span, but stayed flat over the interim periods. Productivity rose from 0.41 short tons per hour in 1997 to 0.42 short tons per hour in 1998. During the interim periods, the rise in productivity was even more pronounced, rising from 0.45 short tons per hour in the first quarter of 1998 to 0.49 short tons per hour in the first quarter of 1999.

III-A-5

Table III-A-4
Refined sugar: U.S. processors'/refineries' shipments, by type, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	1997	1998	January-March 1998	January-March 1999
	Quantity (short tons)			
Commercial shipments	8,545,837	8,454,111	1,993,877	2,021,814
Internal shipments	104,657	192,012	39,113	48,410
U.S. shipments	8,650,494	8,646,123	2,032,990	2,070,224
Export shipments	187,945	170,223	41,000	58,000
Total	8,838,439	8,816,346	2,073,990	2,128,224
	Value (1,000 dollars)			
Commercial shipments	5,002,956	4,737,417	1,130,313	1,132,562
Internal shipments	62,200	115,119	22,469	28,668
U.S. shipments	5,065,156	4,852,536	1,152,782	1,161,230
Export shipments	58,203	52,603	12,448	16,979
Total	5,123,359	4,905,139	1,165,230	1,178,209
	Unit value (per short ton)			
Commercial shipments	$585.43	$560.37	$566.89	$560.17
Internal shipments	594.32	599.54	574.46	592.19
U.S. shipments	585.53	561.24	567.04	560.92
Export shipments	309.68	309.02	303.61	292.74
Average	579.67	556.37	561.83	553.61

Source: Compiled from data submitted in response to Commission questionnaires.

III-A-6

Table III-A-5
Refined sugar: U.S. processors'/refineries' end-of-period inventories, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	1997	1998	January-March 1998	January-March 1999
Inventories (short tons)	1,537,785	1,510,144	1,852,641	1,856,098
Ratio to production (percent)	17.4	17.0	18.9	18.7
Ratio to U.S. shipments (percent)	17.8	17.5	22.8	22.4
Ratio to total shipments (percent)	17.4	17.1	22.3	21.8

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-A-6
Refined sugar: U.S. processors'/refineries' average number of production and related workers, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	1997	1998	January-March 1998	January-March 1999
PRWs (number)	10,826	10,793	9,817	9,593
Hours worked (1,000)	20,920	20,812	5,414	5,141
Wages paid ($1,000)	339,159	347,070	88,643	84,570
Hourly wages	$16.21	$16.68	$16.37	$16.45
Productivity (short tons per hour)	0.41	0.42	0.45	0.49
Unit labor costs (per short ton)	$39.33	$39.98	$36.24	$33.97

Source: Compiled from data submitted in response to Commission questionnaires.

III-A-7

PART III-B: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Data on sugar beet and sugar cane growing and milling operations were provided by 45 sugar beet growers, 22 sugar cane growers, and four sugar cane growers/millers. The reporting sugar beet and sugar cane growers and sugar cane growers/millers represented approximately 3.9 and 11.3 percent of the 1998 U.S. sugar beet and sugar cane crops, respectively.[1] The sugar cane and sugar beet grower financial data in this section are primarily derived from USDA sources which differ from the standard results of operations (income-loss) data that the staff usually presents in its financial section. The financial information provided to the Commission by sugar cane and sugar beet growers and referred to in the narrative of the report is summarized in appendix C.[2] Data on sugar cane milling, cane sugar refining, and sugar beet processing operations were provided by 23 sugar cane mills, five cane sugar refiners, and seven sugar beet processors, respectively.[3] The reporting sugar beet processors and cane sugar refiners represent approximately all U.S. refined sugar produced in 1997 and 1998.

U.S. sugar industry producer data are presented separately because consolidation of this data in the financial section would not be representative. This is due to the mix of reported coverages, the structure of the industry, and the nature of each sector's operations.[4]

Between 1997 and 1998, the sugar beet and sugar cane production and processing sectors reported differing financial results in their questionnaire responses. Sugar beet growers experienced a decrease in total revenue with net income margins declining from 9.6 percent in 1997 to negative 3.8 percent in 1998. Sugar cane growers, on the other hand, reported both increased revenue and net income with net income margins growing from 22.6 percent to 26.6 percent. Cooperative sugar cane mills reported an 11 percent increase in revenue in 1998, while net proceeds declined 3.1 percent. On the other hand, revenue of non-cooperative sugar cane mills was virtually unchanged, but net income increased by *** percent. Cooperative and non-cooperative sugar beet processors both reported increased revenue. However, cooperative sugar beet processors experienced a *** percent decline in operating income, while non-cooperative sugar beet processors reported a 37 percent decline. Sugar cane refiners also reported a dramatic change in financial results between 1997 and 1998. Cane sugar refining revenue declined by 12.4 percent, which was accompanied by a 78 percent drop in operating income. As a result, the overall operating margins of cane sugar refiners slipped from 4.7 percent to 1.2 percent.[5]

---

[1] Not all growers provided their quantity of sales. Accordingly, the numerator components of these percentages are based on estimated total volumes for 1997 and 1998: total reported sales divided by average unit price for those sales with reported quantities. The denominators were 1997 and 1998 total cane and beet production as reported by USDA. Additionally, while the majority of respondents reported data on a calendar-year basis, crop-year and other non-calendar-year data were submitted.

[2] Comparative data for growers' assets, capital expenditures, and research and development expenses, as well as quarterly income-loss data, are not provided in app. C. The majority of growers did not provide asset or capital expenditure information in a usable form. Also, because a single quarter only captures part of the growers' revenue cycle (e.g., in many instances when only expenses are being incurred for planting), these data were not summarized.

[3] ***.

[4] For these reasons, no verification of financial information was conducted.

[5] In the pre-hearing report, changes in operating income for non-cooperative sugar beet processors and cane sugar refiners reflected estimated SG&A values for ***'s processing and refining operations. The final report reflects (continued...)

III-B-1

OPERATIONS OF SUGAR BEET AND SUGAR CANE GROWERS

Sugar Beet Growers

The Commission received responses from growers in each State in which sugar beets are currently grown.[6] The production of sugar beets typically involves several hundred acres and the use of specialized farm equipment, as well as general farm equipment. While other items are grown, most growers indicated that sugar beet farming produces the most stable crop in terms of cash flow.

In order to maintain profitability, growers stated, either directly in their questionnaire response or in follow-up interviews, that cost efficiency has been improved and margins maintained primarily through the expansion of acreage and the introduction of new farming techniques. Based on USDA data, the area planted for sugar beets has increased at an average annual rate of approximately 2 percent between 1985 and 1998. Total sugar beet acreage (planted) in 1998 was reportedly 1.498 million acres.[7] From 1981 through 1996, the per-planted acre cost and value of sugar beets increased at average annual rates of 0.6 percent and 2.8 percent, respectively.[8] When considering just 1990 through 1995, however, per planted acre cost and value declined at average annual rates of 0.8 and 1.8 percent. Between 1981 and 1996, the producer price index (PPI) for all commodities increased at an average annual rate of 1.9 percent.[9]

Based on USDA data, the average 1996 and 1997 net value of sugar beet production per planted acre was 42.7 percent higher than the average net value between 1981 and 1995. (Net value refers to the average gross value per planted acre of sugar beets minus total variable and fixed cash expenses, as reported by USDA.) According to USDA data, higher yields per acre in combination with high unit values made 1997 a particularly strong year for sugar beet growers.

Financial data provided by sugar beet growers in response to the Commission's questionnaire were reasonably consistent with available USDA data. While over half of the sugar beet growers reported positive financial results in 1998, total revenue declined 6.3 percent, with net income margins shrinking from positive 9.6 percent to negative 3.8 percent. Most growers reported a decline in unit value between 1997 and 1998, while total quantity sold increased. Overall, net income declined to a $1.7 million loss in 1998. Unit costs increased approximately 4 percent between 1997 and 1998, while unit sales value

---

[5](...continued)
***'s actual SG&A expenses. Additionally, the cane sugar refiners section now reflects financial information provided by ***.

[6] These States are California, Colorado, Idaho, Minnesota, North Dakota, Michigan, Montana, Nebraska, Washington, and Wyoming. Ohio no longer produces sugar beets, as discussed below.

[7] The calculation of sugar beet acreage annual growth is based on time-series data in USDA's *Sugar and Sweetener, Situation and Outlook Report*, Dec. 1998, p. 67, table 14.

[8] 1981 through 1997 sugar beet price and cost information referred to in this report are based on data provided by the Economic Research Service, USDA: www.econ.ag.gov/briefing/fbe/car/beets3.htm (*U.S. Sugar Beet Production Costs, 1996-97; U.S. Sugar Beet Production Costs, 1992-97;* and *U.S. Sugar Beet Production Costs, 1981-91*).

[9] PPI annual growth rates are based on "PPI - all commodities" time-series data provided by the Federal Reserve Bank of St. Louis: www.stls.frb.org/fred/data/ppi.html. The 1981 through 1996 PPI annual growth rate and the 1981 through 1995 PPI annual growth rate, referred to in the next section, are both 1.9 percent when rounded.

III-B-2

declined 11 percent.[10] USDA financial data describing sugar beet grower financial results are provided in table III-B-1.

Sugar Cane Growers

The Commission received questionnaire responses from each State in which sugar cane is grown.[11] When compared with sugar beets, sugar cane production is reportedly more labor intensive and requires a higher degree of specialization in terms of equipment. While some sugar cane growers reported other crops (including sod), a number indicated that sugar cane is in effect their only crop. In order to maintain profitability, sugar cane growers, similar to sugar beet growers, have reportedly improved cost efficiency by increasing acreage and developing improved farming techniques. Between 1990 and 1999, the area associated with sugar cane production has increased at an average annual rate of 1.4 percent and now totals 934,500 acres.[12]

According to USDA data, the season-average price per ton of sugar cane increased at an annual rate of approximately 1 percent from 1981 to 1995, while costs per harvested acre increased at an average annual rate of 0.5 percent.[13] Between 1981 and 1995, the PPI for all commodities increased at an average annual rate of 1.9 percent. The percentage of net value to total value increased from 14.9 percent to 28.8 percent between 1981 and 1987. By the early 1990's, however, these margins had been reduced in half and they declined further from 15.7 percent in 1993 to 13.9 percent in 1995. While the average price for sugar cane increased by a modest 3.5 percent between 1993 and 1995, total cash costs per harvested acre increased by 6.1 percent.

While available USDA data were not contemporaneous with information submitted to the Commission by sugar cane growers, the reported information was consistent with USDA data in terms of observed regional differences.[14] Based on questionnaire data, between 1997 and 1998 overall operating results for sugar cane growers were positive, with reported revenue increasing by 3.2 percent for growers in Florida and 1.3 percent for growers in Louisiana and Texas, respectively.

---

[10] In general, 1998 was characterized as a poor year because weather-related conditions resulted in lower than average sugar content in the harvested sugar beets. This, in part, explains why a greater volume of beets sold/processed in 1998 resulted in lower overall revenue to sugar beet growers, as compared with 1997.

[11] These States are Florida, Hawaii, Louisiana, and Texas, as well as the territory of Puerto Rico. *** provided financial information related to its cane sugar refining operations only. Sugar cane growers in Hawaii mill their sugar cane production and consequently have no commercial sales of cane. The financial results of the Hawaii grower/millers are also discussed in the sugar cane milling section of this report.

[12] The calculation of sugar cane acreage annual growth is based on time-series data provided in USDA's *Sugar and Sweetener, Situation and Outlook Report*, Dec. 1998, p. 66, table 13.

[13] U.S. sugar cane production cost and value information are based on data provided by the Economic Research Service, USDA: www.econ.ag.gov/briefing/fbe/car/cane3.htm (*U.S. Sugarcane Production Costs, 1981-91; U.S. Sugarcane Production Costs, 1992-96*).

[14] Comparisons of regional sugar cane production costs and values are based on data provided by the Economic Research Service, USDA: www.econ.ag.gov/briefing/fbe/car/cane3.htm (*U.S. Sugarcane Production Costs, 1992-1996; Sugarcane Production Costs, Florida, 1992-96; Sugarcane Production Costs, Hawaii, 1992-96*; and *Sugarcane Production Costs, Louisiana/Texas, 1992-96*.)

III-B-3

Table III-B-1
Results of operations of U.S. sugar beet growers, fiscal years 1995-97

Item	Fiscal year		
	1995	1996	1997
	Dollars per planted acre		
Gross value of production:			
Beets	$749	$892	$936
Beet tops	1	1	1
Total, gross value of production	749	892	937
Cash expenses:			
Seed	40	42	44
Fertilizer	70	71	70
Chemicals	71	74	74
Custom operations	40	34	38
Fuel and lubrication	39	42	43
Repairs	39	39	43
Hired labor	100	105	112
Purchased irrigation water	9	9	10
Freight and dirt hauling charges	13	16	17
Miscellaneous	12	13	13
Hauling allowance (-)	(7)	(9)	(9)
Total, variable cash expenses	426	435	453
General farm overhead	39	26	31
Taxes and insurance	43	36	37
Interest	50	36	36
Total, fixed cash expenses	132	99	104
Total, cash expenses	558	533	558
Gross value of production			
less cash expenses	192	359	379
Season-average price (dollars/ton)[1]	38	45	45
Yield (net tons/planted acre)	20	20	21

[1] As reported by USDA, 1997 and 1996 season-average prices are the same because 1996 was the last year for which sugar beet pricing data were available.

Source: Economic Research Service, USDA.

III-B-4

With respect to their growing operations, Hawaii grower/millers reported in their questionnaire responses that total unit production costs decreased approximately *** percent between 1997 and 1998.[15] Nonetheless, *** reported positive net income (which included by-product credits) on the sale of raw sugar in both 1997 and 1998. Between 1995 and 1996, USDA data indicate that sugar cane growers in Hawaii incurred costs greater than the value of production.[16]

Based on the questionnaire responses of Florida growers, total reported revenue to this group increased in 1998. The majority of these growers, however, reported declining unit values between 1997 and 1998. Despite this decline, total net income for Florida growers increased 22.5 percent due to higher volume and reduced costs. In Louisiana and Texas, net income increased by 11 percent between 1997 and 1998 as a result of overall higher average unit values and only modestly higher unit costs.

USDA financial data describing sugar cane grower financial results are provided in table III-B-2.

OPERATIONS OF SUGAR BEET PROCESSORS

Sugar beet processors produce refined sugar from raw sugar beets in a continuous process and are organized as either cooperatives or non-cooperatives. Cooperative processors are owned collectively by sugar beet growers who contribute their harvest for processing and share in the net proceeds generated by the processor's sale of refined sugar. Non-cooperative processors purchase raw sugar beets from growers. In either form of business organization, the amount of sugar beets to be supplied to the processor and the number of acres to be planted by the sugar beet growers are predetermined through cooperative share-ownership and/or contract.[17]

In both 1997 and 1998, the four non-cooperative sugar beet processors (Amalgamated, Imperial Sugar, Monitor, and Tate & Lyle (Western)) had higher total sales volumes, as compared with the three cooperative sugar beet processors (American Crystal, Minn-Dak, and Southern Minnesota Sugar Cooperative).[18]

Both cooperative and non-cooperative sugar beet processors reported significant past and prospective investments related to the expansion of sugar beet processing capacity. To improve profitability, both the acreage of sugar beet production and the capacity of processing facilities have increased over time. In order to cover high fixed costs, sugar beet processors require a large and secure supply of sugar beets, while sugar beet growers require a crop size large enough to ensure an adequate return. In Ohio, the closure of a sugar beet processing facility illustrates how the interests of both grower and processor must intersect in order for sugar beet production and processing to take place. In 1997, Imperial Sugar was given commitments by growers to grow only half of the 18,000 acres necessary to

---

[15] *** provided usable cost information on their growing operations.

[16] USDA data also show that during this period yield per acre harvested in Hawaii was approximately 10 tons lower than the average yield during the previous 15 years.

[17] Based on information provided in table III-B-3d and table C-5 (appendix C), the beets consumed in the production of beet-processed sugar in 1997 and 1998 represented approximately 47.7 and 46.6 percent of the reported value of beet-processed sugar. (The implied recovery rate is approximately 254 and 246 pounds of beet-processed sugar per ton of raw beets consumed.) In 1998, the ratio of conversion cost (direct labor plus factory overhead) to COGS was 43.9 percent, while conversion cost plus SG&A to COGS plus SG&A was 51.0 percent.

[18] Imperial Sugar and Tate & Lyle also refine raw sugar. Financial data for the sugar beet processing and raw sugar refining activity of these companies were provided separately. ***.

III-B-5

Table III-B-2
Results of operations of U.S. sugar cane growers, fiscal years 1994-96

Item	Fiscal year		
	1994	1995	1996
	Dollars per harvested acre		
Gross value of production	$975	$983	$979
Cash expenses:			
Seed	36	38	38
Fertilizer	64	71	68
Chemicals	66	66	68
Custom operations	57	60	62
Fuel and lubrication	25	27	30
Repairs	97	95	97
Hired labor	338	333	324
Purchased irrigation water	6	6	6
Miscellaneous	9	8	7
Hauling allowance	(7)	(8)	(9)
Total, variable cash expenses	689	695	690
General farm overhead	92	88	83
Taxes and insurance	38	49	51
Interest	12	13	13
Total, fixed cash expenses	141	150	147
Total, cash expenses	830	846	837
Gross value of production less cash expenses	145	137	143
Season-average price (dollars/ton)[1]	29	30	30
Yield (net tons/harvested acre)	33	33	33

[1] As reported by USDA, 1996 and 1995 season-average prices are the same because 1995 was the last year for which sugar cane pricing data were available.

Source: Economic Research Service, USDA.

reopen a processing facility in Freemont, Ohio. Without the necessary supply, this processing facility remains closed, with no plans to reopen in the future.[19]

The financial returns of the cooperative processors underpin the revenue received by owner-growers and, not surprisingly, both beet growers and cooperatives reported lower profitability in 1998. Between 1997 and 1998, cooperatives and non-cooperatives experienced a drop in operating income: *** percent and 37 percent, respectively. The reduction in cooperative operating income was due to both lower prices and higher costs, while the decline in non-cooperative operating income was due entirely to lower prices which were offset to some extent by favorable cost and volume variances.

In addition to stating that lower sugar prices reduced the value of the sugar beets harvested, some sugar beet processors also noted that weather-related difficulties caused processing problems. For example, warmer weather reduced the sugar content as harvested sugar beets continued to metabolize their sugar.

The financial data reported to the Commission by sugar beet processors are provided in tables III-B-3a through III-B-3d.

Table III-B-3a
Results of operations of U.S. sugar beet processors (growers' cooperatives), fiscal years 1997-98 and first quarter 1998-99

* * * * * * *

OPERATIONS OF SUGAR CANE MILLERS

The Commission received questionnaire responses from 12 cooperative sugar cane mills and 11 non-cooperative sugar cane mills.[20] Each State that reportedly mills sugar cane was represented in these responses.[21]

As reported by USDA, sugar cane cash processing expenses (variable and fixed) are the same in each milling area. However, there is some variability by area in the percentage of total processing costs for which each cost item accounts.[22] According to USDA data, the recovery of raw sugar per ton of processed sugar cane and the value of by-products was highest in Hawaii between 1992 and 1996. Total per-pound cash processing costs in Hawaii, however, were 62.4 percent higher than those in Florida, which reportedly

[19] See, Associated Press article *Ohio sugar beet plant appears doomed* dated December 10, 1997, and retrieved on March 18, 1999: www.lubbockonline.com/news/121097/LF0028.html.

[20] The four (non-cooperative) Hawaii sugar cane grower/millers, two of which were jointly owned, consume their sugar cane harvest in their milling operations.

[21] Based on information provided in table III-B-4d and tables C-6A and C-6B (appendix C), the sugar cane consumed in the production of raw sugar in 1997 and 1998 represented approximately 56.5 and 57.2 percent of the reported value of raw sugar. (According to USDA, the 1996 recovery rate was 234 pounds of raw sugar per ton of sugar cane milled. This rate was assumed to be applicable for 1997 and 1998.) In 1998, the ratio of conversion cost (direct labor plus factory overhead) to COGS was 40.7 percent, while conversion cost plus SG&A to COGS plus SG&A was 47.1 percent.

[22] With respect to transportation costs, for example, USDA data indicate that Hawaii growers/millers spend approximately half the amount incurred by millers in Florida and Louisiana/Texas. While some mainland cooperatives and non-cooperative mills grow and process their own cane, Florida-, Louisiana-, and Texas-produced cane is generally harvested and shipped off-site to a cane mill for further processing.

Table III-B-3b
Results of operations of U.S. sugar beet processors (non-cooperatives), fiscal years 1997-98 and first quarter 1998-99

Item	Fiscal year		First quarter	
	1997	1998	1998	1999
	Quantity (*1,000 lbs.*)			
Trade sales	2187	2468	581	579
Company transfers	0	0	0	0
Total sales	2187	2468	581	579
	Value (*$1,000*)			
Trade sales	1,383,141	1,467,144	363,959	355,128
Company transfers	0	0	0	0
Total sales	1,383,141	1,467,144	363,959	355,128
Cost of goods sold	1,127,048	1,220,152	302,244	305,260
Gross profit	256,093	246,992	61,715	49,868
SG&A expenses [1]	143,591	175,711	37,730	37,271
Operating income or (loss)	112,502	71,281	23,985	12,597
Interest expense	17,417	18,523	5,729	4,530
Other expense	5,052	5,453	1,617	1,229
By-product income	11,982	7,675	3,938	967
Other income items	19,801	7,026	940	740
Net income or (loss)	121,816	62,006	21,517	8,545
Depreciation/amortization	39,928	46,539	12,657	13,225
Cash flow	161,744	108,545	34,174	21,770
	Ratio to sales (*percent*)			
Cost of goods sold	81.5	83.2	83.0	86.0
Gross profit	18.5	16.8	17.0	14.0
SG&A expenses	10.4	12.0	10.4	10.5
Operating income or (loss)	8.1	4.9	6.6	3.5
Net income or (loss)	8.8	4.2	5.9	2.4
	Number of firms reporting			
Operating losses	2	1	2	2
Data	4	4	4	4

[1] Staff included in SG&A *** 1998 charges for sugar beet processing asset impairments: ***. Under U.S. GAAP these charges are identified as a separate operating expense.

Source: Compiled from data submitted in response to Commission questionnaires.

III-B-8

Table III-B-3c
Results of operations (per 100 lbs.) of U.S. sugar beet processors (growers' cooperatives), fiscal years 1997-98 and first quarter 1998-99

*   *   *   *   *   *   *

Table III-B-3d
Results of operations (per 100 lbs.) of U.S. sugar beet processors (non-cooperatives), fiscal years 1997-98 and first quarter 1998-99

Item	Fiscal Year		First quarter	
	1997	1998	1998	1999
	100 pound value (*dollars*)			
Net sales	$31.6	$29.7	$31.3	$30.7
COGS:				
Raw materials	15.1	13.9	14.3	14.2
Direct labor	2.0	2.0	2.1	2.2
Other factory	8.7	8.8	9.6	10.0
Total COGS	25.8	24.7	26.0	26.4
Gross profit	5.9	5.0	5.3	4.3
SG&A expenses	3.3	3.6	3.2	3.2
Operating income or (loss)	2.6	1.4	2.1	1.1

Source: Compiled from data submitted in response to Commission questionnaires.

III-B-9

were the lowest per-pound processing costs. Processing costs in Louisiana and Texas were approximately 14.6 percent higher than those in Florida.[23]

Sugar cane mills rely on a steady supply of sugar cane in order to cover large investments in plant and equipment. USDA data indicate that between 1982 and 1993 total U.S. milling capacity increased 15 percent (or about 1 percent annually) from 286,850 short tons to 330,100 short tons. During follow-up interviews with Louisiana mill operators, it was noted that there has been a dramatic consolidation of the milling industry in that State.[24]

With respect to financial data provided to the Commission, both non-cooperative and cooperative sugar cane mills collectively reported positive net income in both 1997 and 1998. While total volume declined modestly for non-cooperative mills, net income increased by *** percent, in large part due to lower costs, as well as a minor increase in unit sales price. Cooperatives, on the other hand, reported a 3.1 percent drop in net proceeds between 1997 and 1998.[25] Slightly lower prices and higher unit costs offset an 11 percent increase in sales volume between 1997 and 1998. In both years, cooperatives reported *** unit sales values relative to non-cooperatives.

The financial data reported to the Commission by sugar cane mills are provided in tables III-B-4a through III-B-4d.

OPERATIONS OF CANE SUGAR REFINERS

Cane sugar refiners process raw sugar (i.e., raw sugar cane which has been subsequently milled) into refined sugar in a continuous process. The Commission received financial data from five cane sugar refiners making up substantially all U.S. cane sugar refining.[26]

Similar to sugar beet processors and sugar cane mills, the large fixed costs of refineries require a steady supply of raw sugar in order to maintain low unit costs. Unlike sugar beet processors, whose raw material is generally not an internationally traded commodity, the source of raw sugar for refining can be either domestic or foreign, given the limitations of TRQs and applicable duties. Also, cane sugar refineries do not have to be geographically close to the area where cane is harvested and milled.

Financial information provided by cane sugar refiners shows that as a group they were profitable in both 1997 and 1998. However, total operating income fell from $148 million to $33 million (or by approximately 78 percent) between 1997 and 1998. This decline was due primarily to lower unit prices (down 7 percent) and to a lesser degree reduced volume. A decrease in unit costs (down 3 percent) only partially offset these negative variances.

Financial data provided to the Commission by cane sugar refiners are presented in tables III-B-5a and III-B-5b.

---

[23] Comparisons of regional sugar cane processing costs and values is based on information from the Economic Research Service, USDA: www.econ.ag.gov/briefing/fbe/car/cane3.htm (*Sugarcane Processing Costs, 1992-96*).

[24] For example, *** reported that its capacity has increased by *** percent from *** (prospective) short tons of processing capacity.

[25] Unlike sugar beet processing cooperatives, the sugar cane mill cooperatives that provided data to the Commission include in their financial results the cost of sugar cane supplied by owner-growers. Because all cooperative sugar cane mills did not provide the quantity of their sales, total quantity figures in table III-B-4a were estimated using the average unit value of sales with reported quantities.

[26] Based on information provided in table III-B-5b, the raw sugar consumed in the production of refined sugar in 1997 and 1998 represented approximately 72.7 and 78.2 percent of the reported value of refined sugar. In 1998, the ratio of conversion cost (direct labor plus factory overhead) to COGS was 15.5 percent, while conversion cost plus SG&A to COGS plus SG&A was 20.9 percent.

III-B-10

Table III-B-4a
Results of operations of U.S. sugar cane millers (growers' cooperatives), fiscal years 1997-98

Item	Fiscal year	
	1997	1998
	Quantity (*1,000 short tons*)	
Trade sales	1,002	1,115
Company transfers	0	0
Total sales	1,002	1,115
	Value (*$1,000*)	
Trade sales	433,947	481,962
Company transfers	0	0
Total sales	433,947	481,962
Cost of goods sold[1]	390,027	434,085
Gross profit	43,920	47,877
SG&A expenses	33,895	37,288
Operating income or (loss)	10,025	10,588
Interest expense	5,213	6,900
Other expense	1,539	1,915
By-product income	8,632	9,415
Other income items	2,512	2,786
Net proceeds	14,417	13,974
Depreciation/amortization	17,015	18,069
Cash flow	31,432	32,043
	Ratio to sales (*percent*)	
Cost of goods sold[1]	89.9	90.1
Gross profit	10.1	9.9
SG&A expenses	7.8	7.7
Operating income or (loss)	2.3	2.2
Net proceeds	3.3	2.9
	Number of firms reporting	
Operating losses	8	3
Data	12	12

[1] Cooperative sugar cane mills include the cost of sugar cane in their financial results.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-B-4b

Results of operations of U.S. sugar cane millers (non-cooperatives), fiscal years 1997-98

* * * * * * *

Table III-B-4c

Results of operations (per 100 lbs.) of U.S. sugar cane millers (growers' cooperatives), fiscal years 1997-98

Item	Fiscal year	
	1997	1998
	100 pound value (*dollars*)	
Net sales	$21.7	$21.6
COGS:		
Raw materials[1]	13.9	14.0
Direct labor	1.2	1.1
Other factory	4.4	4.4
Total COGS	19.4	19.5
Gross profit	2.2	2.1
SG&A expenses	1.7	1.6
Operating income or (loss)	0.6	0.5

[1] Cooperative sugar cane mills include the cost of sugar cane in their financial results.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-B-4d

Results of operations (per 100 lbs.) of U.S. sugar cane millers (non-cooperatives), fiscal years 1997-98

* * * * * * *

Table III-B-5a
Results of operations of U.S. cane sugar refiners, fiscal years 1997-98 and first quarter 1998-99

Item	Fiscal year		First quarter	
	1997	1998	1998	1999
	Quantity (*1,000 short tons*)			
Trade sales	5,487	5,159	1,322	1,294
Company transfers	0	0	0	0
Total sales	5,487	5,159	1,322	1,294
	Value (*$1,000*)			
Trade sales	3,187,169	2,792,531	743,558	683,854
Company transfers	0	0	0	0
Total sales	3,187,169	2,792,531	743,558	683,854
Cost of goods sold	2,826,477	2,584,572	682,150	622,660
Gross profit	360,692	207,959	61,408	61,194
SG&A expenses [1]	212,486	174,973	45,675	43,043
Operating income or (loss)	148,206	32,986	15,733	18,151
Interest expense	19,479	16,903	4,281	4,535
Other expense	16,589	8,227	1,973	471
By-product income	0	0	0	0
Other income items	23,010	20,305	5,072	6,422
Net income or (loss)	135,148	28,161	14,551	19,567
Depreciation/amortization	58,035	59,319	13,924	6,170
Cash flow	193,183	87,480	28,475	25,737
	Ratio to sales (*percent*)			
Cost of goods sold	88.7	92.6	91.7	91.1
Gross profit	11.3	7.4	8.3	8.9
SG&A expenses	6.7	6.3	6.1	6.3
Operating income or (loss)	4.7	1.2	2.1	2.7
Net income or (loss)	4.2	1.0	2.0	2.9
	Number of firms reporting			
Operating losses	0	2	1	1
Data	5	5	5	4

[1] Staff included in SG&A *** 1998 charges for cane sugar refining asset impairments: ***. Under U.S. GAAP these charges are identified as a separate operating expense.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-B-5b
Results of operations (per 100 lbs.) of U.S. cane sugar refiners, fiscal years 1997-98 and first quarter 1998-99

Item	Fiscal year		First quarter	
	1997	1998	1998	1999
	100 pound value (*dollars*)			
Net sales	$29.0	$27.1	$28.1	$26.4
Cost of goods sold				
Raw materials	21.1	21.2	21.5	19.7
Direct labor	1.2	1.2	1.2	1.2
Other factory	3.4	2.7	3.1	3.3
Cost of goods sold	25.8	25.0	25.8	24.1
Gross profit	3.3	2.0	2.3	2.4
SG&A expenses	1.9	1.7	1.7	1.7
Operating income or (loss)	1.4	0.3	0.6	0.7

Source: Compiled from data submitted in response to Commission questionnaires.

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

Sugar cane millers, sugar beet processors, and sugar cane refiners provided data on capital expenditures, R&D expenses, and the value of their property, plant, and equipment. This information is shown in table III-B-6.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe the significance of the existing antidumping and countervailing duty findings/orders covering imports of sugar from the EU and Canada in terms of revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. The Commission also requested U.S. producers to state whether they anticipated any changes in these factors if the antidumping and countervailing duty findings/orders were revoked. Their responses are shown in appendix D.

III-B-14

Table III-B-6
Capital expenditures, R&D expenses, and value of assets of sugar beet processors, cane sugar refiners, and sugar cane millers, fiscal years 1997-98 and first quarter 1998-99

Item	Fiscal year		First quarter	
	1997	1998	1998	1999
	Value ($1,000)			
Capital expenditures:				
Sugar beet processors	185,370	187,440	23,182	32,993
Cane sugar refiners [1]	46,309	49,779	10,523	4,862
Sugar cane millers	***	***	(2)	(2)
Total	***	***	33,705	37,855
R&D expenses:				
Sugar beet processors	3,662	3,507	952	2,736
Cane sugar refiners	1,510	1,913	452	415
Sugar cane millers	***	***	(2)	(2)
Total	***	***	1,404	3,151
Fixed assets:				
Sugar beet processors				
Original cost	1,980,326	2,134,434	2,004,890	2,054,518
Book value	1,080,761	1,161,150	1,082,659	1,218,755
Cane sugar refiners				
Original cost	862,926	798,186	769,827	744,965
Book value	533,746	538,103	534,861	611,746
Sugar cane millers				
Original cost	***	***	(2)	(2)
Book value	***	***	(2)	(2)
Total original cost	***	***	2,774,717	2,799,483
Total book value	***	***	1,617,520	1,830,501

[1] *** did not provide information related to its assets or capital expenditures.
[2] Because sugar cane millers were not able to provide quarterly information in a consistently usable format, this information has been omitted.

Source: Compiled from data submitted in response to Commission questionnaires.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

U.S. IMPORTS

Sugar imports are presented in table IV-1. As shown, imports were negligible from all subject countries over the period for which the Commission collected data, and Canada accounted for nearly all of those imports. Sizable imports entered the United States from more than 40 non-subject countries, most of them under the tariff rate quota administered by USDA. (See appendix F.)

According to Commerce import statistics, Canada shipped 12,731 short tons of sugar to the United States in 1997 and 12,102 short tons in 1998. Over *** of imports from Canada in 1997 and over *** in 1998 were produced by Rogers Sugar, Ltd., a company based in Vancouver, B.C. In Commerce's annual review on *Sugar and Syrups from Canada* ending in March 1982, Rogers received a zero dumping margin, which it maintained through the most recent review ending in March 1987. The AD order on Rogers Sugar has not been revoked, however.

Imports from the EU totaled 4 short tons in 1979, the year after the imposition of the CVD order on *Sugar from the European Union.* Since that time, imports from the EU have been severely limited, in part because the EU is not granted any of the U.S. tariff rate quota on raw cane sugar.[1] See tables I-1A and IV-2. Although 2.2 million short tons of sugar were imported into the United States from all countries in 1998, only 267 short tons were from the EU. Imports from Belgium, France, and Germany totaled 193 short tons during that year. Data on the values of imports subject to the AD and CVD orders in FY 1997 are listed in the *Case History and Scope Information*, available on Commerce's web site. These data reveal that less than 10 percent of the sugar imports from the EU during FY 1997 were subject imports. Approximately *** percent of imports from Canada in FY 1997 were subject to the AD order.[2]

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission generally considers four factors: fungibility, presence of sales or offers to sell in the same geographical markets, common or similar channels of distribution, and simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Part I; geographical markets and presence in the market are discussed below.

---

[1] EU sugar producers have the same opportunity as all other foreign producers to ship refined sugar under the global "first come, first served" TRQ. For the most part, though, EU producers have declined that opportunity.

[2] According to Customs' *Antidumping/Countervailing Duty Annual Report*, the values of subject imports in FY 1997 under the CVD order on sugar from the EU were as follows: Belgium–***; France–***; Germany–***; the Netherlands–***; and the United Kingdom–***. Information received from Customs indicates that deposits on CVD duties on this order amounted to ***.

The values of subject imports in FY 1997 under the AD order on sugar from Belgium, France, and Germany were as follows: Belgium–***; France–***; and Germany–***. Information received from Customs indicates that deposits on AD duties on these orders amounted to ***.

The value of subject imports in FY 1997 under the AD order on sugar and syrups from Canada was ***. Information received from Customs indicates that deposits on AD duties on this order amounted to ***.

Table IV-1
U.S. imports of sugar, by sources, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	1997	1998	January-March 1998	January-March 1999
	Quantity (short tons)			
Belgium	317	119	71	38
France	7	66	43	10
Germany	1	9	0	(1)
Subtotal	326	193	114	48
Other European Union	11	74	3	39
Total European Union	337	267	117	87
Canada	12,731	12,102	0	1,828
Other sources	3,178,277	2,216,500	380,687	500,792
Total	3,191,345	2,228,869	380,804	502,707
	Value (1,000 dollars)			
Belgium	620	167	78	72
France	23	147	86	23
Germany	9	13	0	3
Subtotal	652	326	164	98
Other European Union	22	97	5	66
Total European Union	674	424	169	164
Canada	6,233	6,338	0	960
Other sources	1,037,945	790,300	144,077	128,616
Total	1,044,851	797,062	144,246	129,740
	Unit value (per short ton)			
Belgium	$1,955.63	$1,399.82	$1,096.13	$1,883.45
France	$3,059.95	$2,239.25	$1,999.24	$2,443.41
Germany	$6,422.18	$1,452.66	(2)	$7,282.50
Average	$2,000.81	$1,687.66	$1,436.11	$2,043.86
Other European Union	$1,946.96	$1,317.34	$1,722.86	$1,687.43
Average, European Union	$1,999.04	$1,585.36	$1,442.81	$1,883.61
Canada	$489.55	$523.75	(2)	$524.95
Other sources	$326.57	$356.55	$378.47	$256.83
Average	$327.40	$357.61	$378.79	$258.08
	Share of quantity (percent)			
Belgium	(3)	(3)	(3)	(3)
France	(3)	(3)	(3)	(3)
Germany	(3)	(3)	0	(3)
Subtotal	(3)	(3)	(3)	(3)
Other European Union	(3)	(3)	(3)	(3)
Total European Union	(3)	(3)	(3)	(3)
Canada	0.4	0.5	0	0.4
Other sources	99.6	99.4	100.0	99.6
Total	100.0	100.0	100.0	100.0
	Share of value (percent)			
Belgium	0.1	(3)	0.1	0.1
France	(3)	(3)	0.1	(3)
Germany	(3)	(3)	0	(3)
Subtotal	0.1	(3)	0.1	0.1
Other European Union	(3)	(3)	(3)	0.1
Total European Union	0.1	0.1	0.1	0.1
Canada	0.6	0.8	0	0.7
Other sources	99.3	99.2	99.9	99.1
Total	100.0	100.0	100.0	100.0

(1) Less than 0.5 short tons.
(2) Not applicable.
(3) Less than 0.05 percent.

Source: Compiled from official Commerce statistics based on definitions of the subject product by the Department of Commerce from the original AD and CVD investigations and subsequent administrative reviews. See I-16 through I-17.

Table IV-2
U.S. imports of sugar from the European Union and Canada, 1978-98

Source	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Canadian imports (short tons)	98,144	89,521	638	2,597	35,035	14,501	20,716	25,074	17,528	10,789	10,509
European Union imports (short tons)	84,592	4	185	34	52	245	494	470	604	350	163
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	
Canadian imports (short tons)	10,870	27,496	34,158	38,499	37,492	58,748	25,245	8,402	12,731	12,102	
European Union imports[1] (short tons)	206	261	221	226	293	208	191	534	337	267	

[1] There is anecdotal evidence obtained from Commerce and USDA that most sugar imports from the European Union are "specialty sugars" and are not part of Commerce's scope for *Sugar from the European Union* and *Sugar from Belgium, France, and Germany*. Because imports of specialty sugars are included under more general sugar HTS categories and records are not kept by USDA or Commerce on specialty sugar shipments, this evidence can not be verified.

Source: USDA import statistics for 1978-81; Commerce import (TSUS) statistics for 1982-88; and Commerce import statistics (HTS) for 1989-98.

Geographical Markets

Sugar produced in the United States is shipped nationwide. Data from Commerce indicate that imports from Canada are entering through northern U.S. ports across the country. During the period for which the Commission collected questionnaire data, the port receiving the largest shipments of Canadian sugar was Detroit, followed by Cleveland, Chicago, and Pembina, ND. Imports from the EU were minimal, but there were small quantities shipped into ports on the east and west U.S. coasts, particularly Baltimore, Los Angeles, New York, and San Francisco.

Presence in the Market

Sugar produced in the United States was present throughout the period for which data were collected by the Commission. Similarly, Commerce data show that subject merchandise from Canada and the EU (but not every member country) was shipped during every quarter of 1997 and 1998 and during the first quarter of 1999.

IV-3

U.S. IMPORTERS' INVENTORIES

End-of-period inventories for sugar imports from Canada are listed in table IV-3. The only company reporting imports of Canadian sugar in the Commission's questionnaire was Rogers Sugar. As shown, Rogers *** inventory in the U.S. market between January 1997 and March 1999. None of the importers reporting questionnaire data imported or inventoried subject merchandise from the EU.

Table IV-3
U.S. importers' end-of-period inventories of subject imports from Canada, 1997-98 and January-March 1998 and 1999

* * * * * * *

SUBJECT COUNTRY PRODUCERS

There are more than 20 sugar producers in the EU, the vast majority of which produce only beet sugar. Twenty-one foreign producer/exporter questionnaires were sent to EU companies thought to produce sugar (and for which addresses could be found); three were returned and two contained usable information. The usable data was sent by ***. *** reported *** plant closures in the *** during the 21 year period since the first order under review went into effect -- one in *** and the other ***. Over the period for which the Commission collected questionnaire data, *** production of sugar was exported outside the EU, although *** went to the United States. *** currently has no plans to *** operations during 1999 and 2000.

*** has production capacity approximating *** short tons annually. In 1997, *** produced *** short tons, but production declined to *** short tons in 1998. Approximately *** short tons was internally consumed by *** food divisions in 1998, producing soups, confectionery and bakery products, breakfast cereals, and other foods requiring sugar. Approximately *** short tons was exported from the EU, but *** to the United States.

Table IV-4 presents data on EU production, imports, consumption, and exports for the 1997/98 marketing year and estimates for the next 2 marketing years, 1998/99 and 1999/2000. As shown, the EU currently produces and imports more than its member countries consume. This overproduction requires that the remaining sugar be exported. If consumption trends remain stable, the EU will continue exporting large quantities of sugar over the next 2 years.

There are currently three sugar producers in Canada: Lantic Sugars, Redpath Sugar, and Rogers Sugar. Several of the companies subject to the original AD investigation on Canadian sugar have merged with one of these firms, including St. Lawrence Sugar, Ltd., Atlantic Sugar, Ltd., and Westcane Sugar, Ltd. In addition, Rogers Sugar became the successor in interest to BC Sugar. Since the 1980s, Lantic and Redpath have not been subject to the Canadian order, and Rogers is the only Canadian producer subject to the Commission's review. (See appendix E.)

In the original investigation on *Sugar and Syrups from Canada,* the domestic like product was defined to be all refined cane and beet sugar, and most of the imports from Canada were refined from sugar cane. At that time, Customs considered all sugar refined in Canada to be of Canadian origin. Subsequent to the orders under review, Customs ruled that refining raw sugar is not a substantial transformation of the sugar. Therefore, sugar refined in Canada from imported raw cane sugar is no

IV-4

Table IV-4
EU production, imports, consumption, exports, inventories, and production of "C" sugar[1]

Item	1997/98	1998/99 (prelim.)	1999/2000 (est.)
	(1,000 short tons, raw value)		
Beginning stocks	2,794	3,308	3,319
Production:			
Belgium	1,220	951	1,130
France	5,950	5,423	5,344
Germany	4,847	4,821	4,934
Other EU	9,263	8,444	8,892
Total EU[2]	21,280	19,639	20,300
"C" sugar production:[3]			
Belgium/Luxembourg[4]	314	53	([5])
France	2,081	1,567	([5])
Germany	881	818	([5])
Other EU	1,928	1,610	([5])
Total EU	5,204	4,048	([5])
EU imports[6]	2,016	([5])	([5])
EU consumption	15,771	15,781	([5])
EU exports	7,011	([5])	([5])
EU ending stocks	3,308	3,319	3,215

[1] EU production, consumption, and export data given according to their marketing year, which runs from July to June.
[2] Nearly all of the cane sugar production included in these totals was produced in France. Cane sugar production totaled 302,000 short tons in 1997/98, with an estimated production of 291,000 short tons in 1998/99 and a forecast of 291,000 short tons in 1999/2000.
[3] "C" sugar does not receive export restitution payments and must, by statute, be exported from the EU before January 1 after the marketing year during which the sugar was produced. Penalties are levied by the EU Commission against any sugar not exported by that time. All "C" sugar is included in production totals above and exports below.
[4] Belgium and Luxembourg data were combined by the EU Commission for "C" sugar.
[5] Not available.
[6] EU import data are given on an October-September basis. For example, 1997/98 imports are for the period Oct. 1, 1997-Sept. 30, 1998.

Note: Data are presented on a marketing year basis; 1998/99 data are preliminary; 1999/2000 data are forecast.

Source: *1999 EU Annual Report on Sugar*, Office of Agricultural Affairs, U.S. Mission to the EU, Mar. 29, 1999 (USDA Attache Report E 29036).

IV-5

longer considered to be Canadian product and is not permitted to enter the United States under Canada's separate TRQ for refined sugar. Therefore, all imports of refined sugar entering the United States under Canada's TRQ are processed from sugar beets.

Canadian beet sugar production and sugar consumption balances are shown in table IV-5. Beet sugar production accounted for less than 10 percent of Canadian sugar consumption in crop year 1997/98. Canadian beet sugar production has fluctuated over the last 20 years, often moving in conjunction with the sugar beet acreage harvested by farmers. From 1994 to 1996, beet sugar production was close to historical highs, but it declined sharply in 1997, as the number of acres harvested dropped by nearly 42 percent. See table IV-6 and figure IV-1. Rogers is the only Canadian producer of refined beet sugar.[3] The other two sugar producers, Lantic Sugar and Redpath Sugars, only refine cane sugar.

Table IV-5
Canadian sugar production, imports, exports, inventories, and consumption

Item	1996/97	1997/98 prelim.	1998/99 estimate
	(1,000 short tons, raw value)		
Beginning stocks	223	184	209
Production of beet sugar[1]	158	105	121
Total imports	1,205	1,348	1,334
Exports	18	17	17
Total Canadian consumption	1,383	1,411	1,427
Ending stocks	184	209	221

[1] All production of sugar in Canada is from beets. All refined cane sugar is made from imported raw cane sugar and to include it in production figures would be double counting since it is already included in imports.

Note: Because of rounding, figures may not add to totals shown.

Source: American Embassy, Ottawa, Sugar Market Country Report.

Table IV-7 presents data on Rogers' beet sugar operations. Production capacity decreased from *** short tons in 1997 to *** short tons in 1998, a decline of *** percent. Production also declined over the period, from *** short tons in 1997 to *** short tons in 1998. In the interim periods, production declined from *** to *** short tons. Between 1997 and 1998, capacity utilization fell from *** to *** percent. Approximately *** of Rogers' total shipments serve the Canadian home market, and most export shipments to the United States are ***. Changes to Rogers' *** since 1978 and *** over the next two years are listed below. The information was taken from Rogers' questionnaire response.

* * * * * * *

[3] Rogers Sugar also produces refined cane sugar at its Vancouver, B.C. refinery.

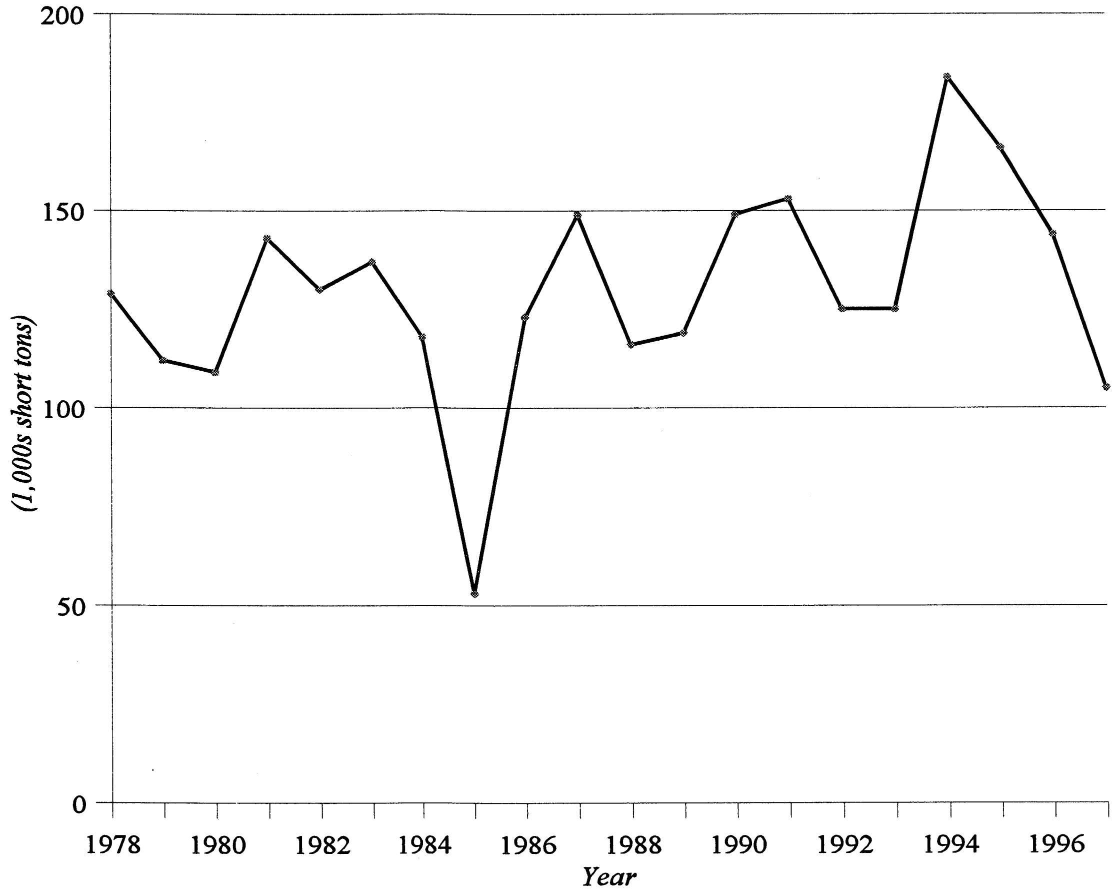
IV-6

Table IV-6 **Beet sugar production in Canada, 1978-97**		
Year	Harvested acreage	Refined sugar produced *(1,000 short tons)*
1978	60,600	129
1979	58,500	112
1980	64,685	109
1981	72,430	143
1982	71,110	130
1983	76,580	137
1984	63,663	118
1985	29,627	53
1986	55,688	123
1987	55,175	149
1988	50,679	116
1989	55,412	119
1990	59,662	149
1991	59,306	153
1992	54,551	125
1993	57,394	125
1994	62,015	184
1995	59,588	166
1996	56,733	144
1997	33,124	105
Source: Rogers Sugar, Ltd. substantive response to the Commission, Nov. 20, 1998, exhibit 3.		

Table IV-8 lists data on beet and cane sugar from all three Canadian sugar producers.

IV-7

Figure IV-1
Beet sugar production in Canada, 1978-97



Source: Rogers Sugar, Ltd. substantive response to the Commission, Nov. 20, 1998, exhibit 3.

Table IV-7
Rogers Sugar's capacity, production, inventories, shipments, and exports of beet sugar, 1997-98 and January-March 1998 and 1999

* * * * * * *

IV-8

Table IV-8
Data for refined beet and cane sugar from all sugar producers in Canada, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	1997	1998	January-March 1998	January-March 1999
	Quantity (1,000 short tons)			
Capacity	1,303	1,355	342	345
Production	1,308	1,214	363	306
End-of-period inventories	72	52	104	67
Shipments:				
Home market commercial shipments	1,203	1,167	306	269
Internal consumption/transfers	40	45	10	9
Exports to:				
United States	6	14	13	11
All other markets	49	9	3	2
Total exports	54	23	15	13
Total shipments	1,297	1,235	331	291
	Ratios and shares (percent)			
Capacity utilization	100.4	89.6	106.2	88.7
Inventories/production	5.5	4.3	7.2	5.5
Inventories/shipments	5.6	4.2	7.9	5.8
Share of total shipments:				
Home market commercial shipments	92.7	94.5	92.4	92.5
Internal consumption/transfers	3.1	3.6	3.0	3.1
Exports to:				
United States	0.4	1.1	3.8	3.9
All other markets	3.8	0.8	0.8	0.5
Total exports	4.2	1.9	4.6	4.4

Note.--Because of rounding, figures may not add to totals shown. Jan.-Mar. inventory ratios are annualized. Ratios and shares are computed from the unrounded data.

Source: Compiled from data submitted in response to Commission questionnaires.

IV-9

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

U.S. Sugar Policy

U.S. sugar policy consists of a loan program to sugar beet and sugar cane processors, part of which is used to purchase the domestic sugar beet and sugar cane crops. The loan program helps to establish a floor price for domestic sugar. Also, a tariff-rate quota system administered by an ad hoc working group serves to restrict imports by imposing relatively high tariffs on imports that exceed the quota. U.S. sugar policy results in the U.S. price being higher than the world price. U.S. sugar policy is discussed more fully in Parts I and II.

AD and CVD Orders

As discussed in Part I, Commerce published its final review determinations for Belgium, France, and Germany in the *Federal Register* on February 4, 1999, and found that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping at the following rates: Belgian sugar exporters, 103 percent; French sugar exporters, 102 percent; and German sugar exporters, 121 percent. Commerce notified the Commission of its final results for the EU and for Canada on August 30, 1999. Commerce found that revocation of the countervailing duty order on imports from the EU would likely lead to continuation or recurrence of a countervailable subsidy on all EU sugar exports to the United States, totaling 23.69 cents per pound, and that revocation of the antidumping order on imports from Canada is likely to lead to the continuation or recurrence of dumping at the following margins: 1.0105 cents per pound (Rogers) and 2.37 cents per pound (all others).[1]

Costs of Fixed and Variable Inputs

Most cash expenses for sugar beet growers during fiscal years 1995-97 and sugar cane growers during fiscal years 1994-96 were for variable costs.[2] Table III-B-1 shows that 79.7 percent of the dollars spent per planted acre for sugar beet growers were towards variable costs, and table III-B-2 shows that 82.5 percent of the dollars spent per planted acre for sugar cane growers were towards variable costs, during the respective periods.

Although milling and processing are more capital intensive,[3] the large majorities of the cost of sales for both sugar cane milling and sugar beet processing (as shown in tables III-B-3d, III-B-4c, and III-B-4d) are the raw materials, sugar cane and sugar beets, respectively. For sugar beet processing non-cooperatives, raw materials costs made up 56.2 percent, on average, of the cost of goods sold for 1997

---

[1] The antidumping order against Redpath Sugars, Ltd. has been revoked since 1987, and the antidumping order against Lantic Sugar, Ltd., formerly Atlantic Sugar, Ltd., has been revoked since 1984.

[2] The variable costs include seed, fertilizer, chemicals, custom operations, fuel and lubrication, repairs, hired labor, purchased irrigation water, freight and dirt hauling charges, and miscellaneous expenses.

[3] USBSA and USCSRA posthearing brief, p. 9. Processors try to maintain high capacity utilization rates to pay capital expenses.

V-1

through the first quarter of 1999. Raw materials costs made up *** percent, on average, of the cost of goods sold for sugar cane milling non-cooperatives for 1997-98.

Transportation Costs

The difference between customs value and c.i.f. value provides an indication of transportation costs to access the U.S. market. For sugar from France, Belgium, and Canada, these costs added an average of 6.7 percent, 6.7 percent, and 4.5 percent, respectively, to the price of sugar from these countries. These differences, for France and Belgium, averaged $0.053 in unit value per pound for 1997 through March 1999. For Canada, per pound differences in c.i.f. and customs value averaged $0.011 over the same time period. Imports from Germany were not large enough to make an estimate of these costs for that country, but they would be expected to be similar to those from France and Belgium.

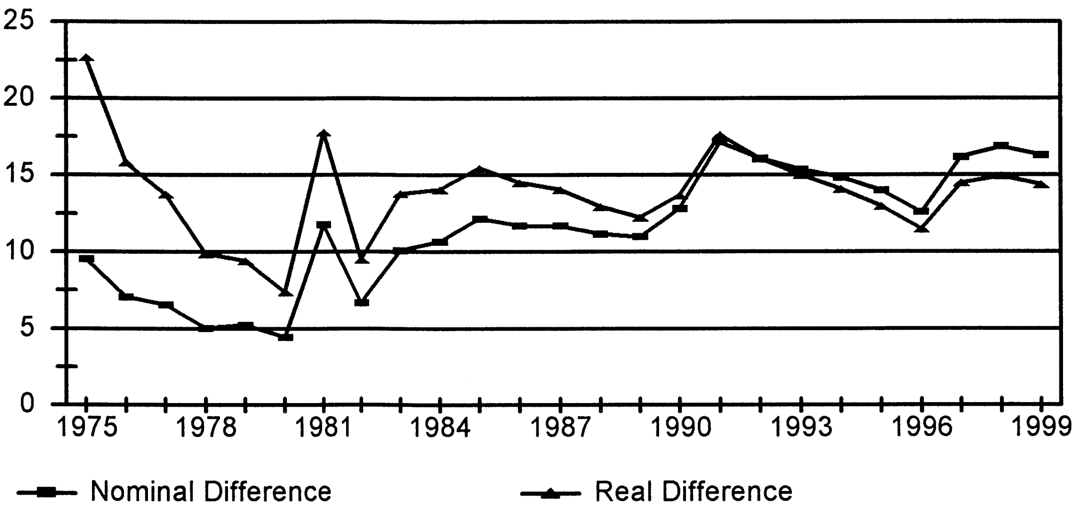
Transportation costs to deliver sugar within the United States vary and account for a small percentage of its total cost. Firms responding to the processors'/refiners' questionnaire cited transportation costs ranging between 4 and 10 percent of total delivered costs, with an unweighted average of 6.25 percent. There exists a fair amount of variation in the amount of sales that occurs within different proximities to the firms. For example, 85 percent of the sales for *** occur within 100 miles of the production facility, while only 27 percent of sales for *** occur within 1,000 miles.

Wholesale and Retail Margins

Figure V-1 shows the margins between U.S. wholesale and retail prices from 1975 through the first quarter of 1999. The nominal wholesale prices are the f.o.b. refined beet sugar prices for the Midwest market, and the retail prices are for refined sugar in the entire United States. The real prices are simply the nominal prices adjusted by the GDP deflator (1992=1), and both series of prices are cited in cents per pound. The real and nominal price margins have followed essentially the same path, but the margin in real terms decreased while the nominal margin increased between 1975 and the first quarter of 1999. There was a spiked increase in the retail price relative to the wholesale price in 1980-81, and then further sharp increases in 1985 and 1991 that were subsequently followed by steady declines. The nominal price difference rose to about 16.5 cents per pound in 1997 and has since remained steady at that level, while the real price difference has remained steady around 14.5 cents per pound for the same time period.

V-2

Figure V-1
Margins between U.S. wholesale and retail prices in cents per pound, 1975-99[1]



[1] Figures for 1999 represent the first quarter only.

Source: Calculated from data from ERS, USDA.

Exchange Rates

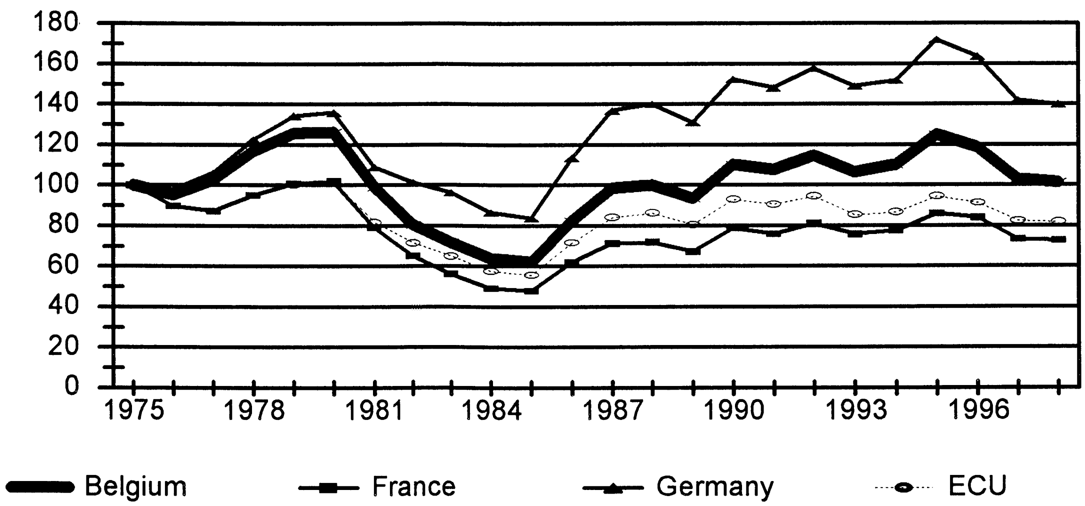
The exchange rate represents the currency differentials between two countries, so that the prices of goods rise when the currency of one country appreciates. Thus, exchange rates indicate an exogenous impact on the terms of trade. Each subject country has maintained a floating currency throughout the period of analysis. As the three European countries have all adopted the euro, its influence must also be included.

The euro was adopted on January 1, 1999, and although paper bills and coins will not appear until 2002, it is currently in use as a medium of exchange for "written" money such as checks and bank transfers. Before the euro, the European Currency Unit (ECU) was defined from a basket of EU member currencies, and a smooth time series can be created by combining ECU and euro exchange rates. The exchange value of the euro is based on irrevocable fixed conversion rates for the former national currencies. For the subject countries, these rates are BF 40.34 (Belgium), F 6.560 (France), and DM 1.956 (Germany). Since its introduction, the euro has depreciated significantly against most major currencies, including the U.S. dollar, falling from an initial rate of 1.179 $/e to 1.032 $/e.

Figures V-2 and V-3 represent the trends in value of various currencies per U.S. dollar, normalized to 1975 = 100. Figure V-2 shows the currency trends for the European countries during 1975 to 1998. As shown, each follows a similar trend, appreciating relative to the dollar in the late 1970s, depreciating until the mid-1980s, and then following an upward (if sporadic) trend from 1985 to 1995. Since then, these currencies have tended to depreciate relative to the U.S. dollar. Between 1975 and 1998 relative to the U.S. dollar, the German mark appreciated; the Belgian franc was unchanged; and the composite European currency and the French franc depreciated. As shown in figure V-3, the Canadian dollar has realized a long-term depreciation against the U.S. dollar, with a temporary reversal in the late 1980s.

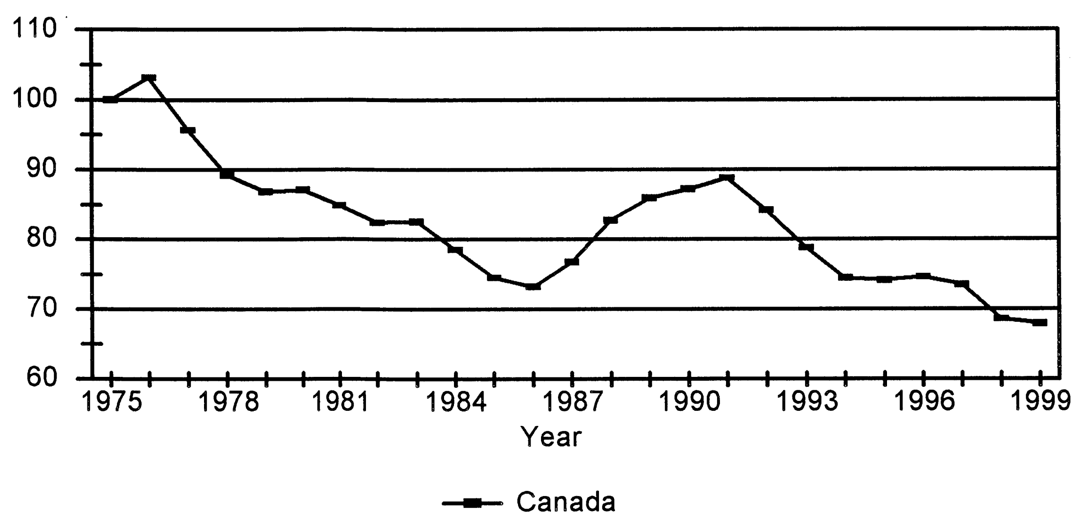
V-3

Figure V-2
Exchange rates: Indexes (1975=100) of the nominal U.S. dollar price of selected European currencies, 1975-98



Source: Certified exchange rates from the Federal Reserve Bank of New York.

Figure V-3
Exchange rates: Indexes (1975=100) of the nominal U.S. dollar price of the Canadian dollar, 1975-99[1]



[1] Figures for 1999 represent the first quarter only.

Source: Certified exchange rates from the Federal Reserve Bank of New York.

V-4

Pricing Practices

For U.S. producers, the majority of prices for sugar are set on a contract basis. Firms generally reported that 80-85 percent of sales are set by a contract, with the remainder on a spot basis. Most contracts are set for a period of 12 months, but one firm reported renegotiating every 6 months. Every firm contracts for both price and quantity, with very few minimum requirements of quantity.[4] The prices that are quoted usually include delivery charges, but firms will also quote f.o.b. by preference of the customer. The average lead time between order and delivery is 4 to 7 days. There were no reported differences between the pricing practices of importers and those of U.S. processors.

PRICE DATA FROM COMMISSION QUESTIONNAIRES

The Commission requested U.S. processors/refiners and importers to provide quarterly quantity and value data between January 1997 and March 1999. The processors/refiners that responded to the survey are ***. The importers that responded to the survey are ***. The importers, however, did not report activity with any of the subject countries and thus did not provide data on quantities or prices.[5] Consequently, there can be no assessment of the importer-domestic price margins.

The weighted-average prices and quantities of shipments for 10 reporting processors/refiners are shown in table V-1. Product 1 is granulated sugar produced from sugar cane or sugar beets in 100 pound bags, while product 2 is the same good in bulk. Prices are listed as cents charged per pound. The prices for 100 pound bags fell from 29.51 cents per pound in the first quarter of 1997 and to a low of 26.91 cents per pound in the second quarter of 1998, and then rose through the first quarter of 1999. The price for bulk sales generally followed the same pattern, dropping to a low of 25.51 cents per pound in the second quarter of 1998 before rising again. Reported sale quantities were highest in the third quarters, and more sales were reported in bulk in rail cars than in 100-pound bags.

Table V-2 shows data for firms that purchased refined sugar in 1997 and 1998.[6] Only one firm each responded with purchase information for Canada and for non-subject sources,[7] although every firm responded with information for the United States, as evidenced by the large quantities of purchases made of U.S. product. The domestic and foreign prices are fairly close, with the non-U.S. price rising between 1997 and 1998, but the different prices are not comparable due to the small sample set for non-U.S. prices.

---

[4] Ms. Nyberg, a representative of United Sugars, reported that contracts are typically negotiated between September and December after the size of the beet crop has been estimated and the TRQ quotas established. Although prices and quantities are fixed, customers may seek adjustment for large changes in market price. See hearing transcript, p. 26.

[5] USBSA and USCSRA presented information on lost sales in exhibits 4 and 5 of their posthearing brief. The point of these exhibits was that sales were lost on the basis of very small price differences, usually less than 1¢ per pound, and not that the sales were lost to unfairly priced imports. Very few imports from European countries were reported for this period, and imports from Canada entered without any dumping duties.

[6] The firms responding to the survey are ***.

[7] No purchase data were reported for any subject European countries.

V-5

Table V-1
Granulated sugar produced from sugar cane or sugar beets: Weighted-average prices and quantities reported by U.S. processors/refiners, January 1997-March 1999

Period	Product 1: 100 pound bags			Product 2: Bulk, in rail cars		
	Price *(cents/pound)*	Quantity *(short tons)*	Companies reporting	Price *(cents/pound)*	Quantity *(short tons)*	Companies reporting
1997:						
Jan. - Mar.	29.51	181,307	10	27.10	843,417	9
Apr. - June	29.28	202,947	10	27.41	881,835	9
July - Sept.	28.91	268,699	10	27.40	982,257	9
Oct. - Dec.	28.21	186,660	10	26.14	810,453	9
1998:						
Jan. - Mar.	27.00	204,052	10	25.52	970,564	9
Apr. - June	26.91	221,341	10	25.51	949,250	9
July - Sept.	27.14	230,107	10	25.56	999,064	9
Oct. - Dec.	28.13	172,277	10	25.80	977,961	9
1999:						
Jan. - Mar.	28.48	164,501	10	25.95	1,128,602	9

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-2
Refined sugar purchases, 1997-98

Country (# of firms responding)	1997		1998	
	Weighted avg. price *(cents/pound)*	Quantity *(short tons)*	Weighted avg. price *(cents/pound)*	Quantity *(short tons)*
United States (11)	28.76	716,345	28.85	694,809
Canada (1)	***	***	***	***
Non-subject countries (1)	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

V-6

PRICE DATA FROM PUBLIC SOURCES

Staff examined public price data furnished by the USDA for raw and refined sugar from the United States and the world, which was available for a fairly long time span. U.S. raw prices are duty-paid, New York prices for raw sugar, and U.S. refined prices are wholesale refined sugar beet prices in the Midwest market. Because beet sugar and cane sugar are generally interchangeable, these prices are representative of both beet and cane sugar at the wholesale level. World raw prices are f.o.b. prices at selected ports (mainly Caribbean and Brazil), and world refined prices are futures prices from the London International Financial Futures and Options Exchange. The world prices do not include import duties and are thus considered to be free market prices. The relationship between futures prices and the price of actual sugar depends partially upon the volume of sugar that underpins the futures contract. Preferential policies by Europe and the United States, among others, and additional factors have resulted in less than a quarter of the world's sugar being traded at world prices. Also, trade has increased in white sugar that contains some impurities. This lower quality white sugar, which is often produced in Brazil, Central America, or Thailand, may command a lower market price. Thus, the world prices are indicative of free trade prices but are not strictly comparable to U.S. prices.

Figure V-4 compares nominal prices for raw sugar for the United States and the world from 1970 through the first quarter of 1999. U.S. prices have generally exceeded world prices. Shortages in the world market in 1974 resulted in an approximate tripling of sugar prices, and Congress deemed the U.S. sugar program no longer necessary. However there was a large production response and decline in world prices, and a temporary price support program was initiated in 1977. Another spike in world prices occurred in 1980 and made price supports unnecessary in 1980 and for most of 1981. The lack of U.S. Government intervention in 1975/76 and 1980/81 is exceptional, and during these periods the U.S. price closely tracked the world price. Since 1982, import restraints, as discussed in Part I, have been in place and have been effective in maintaining the U.S. price above the world price.

Another aim of U.S. sugar policy is to make prices less volatile. Visual inspection of figure V-4 shows that U.S. prices have been significantly less volatile than world prices, especially since 1982. Sample variances of U.S. and world raw sugar prices since 1982 were 0.72 and 7.83, respectively.[8] Recent U.S. sugar policy appears to be successful in reducing price volatility.

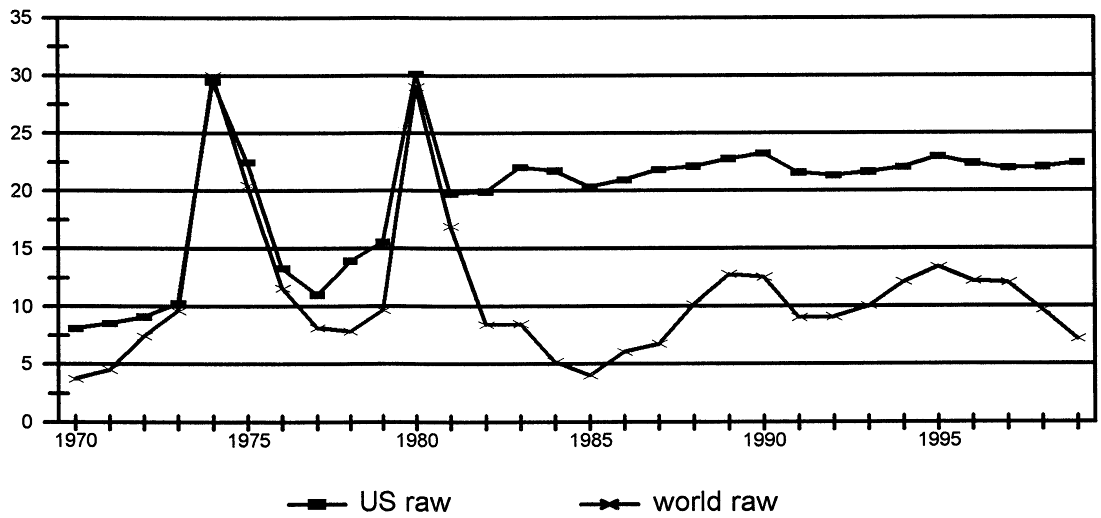
Similar to raw sugar prices, the U.S. price for refined sugar exceeds the world refined price, especially since 1981. A spike, similar to that of raw sugar, occurred in 1980. U.S. refined prices appear to follow world refined prices more closely than raw U.S. prices follow raw world prices. There has been some divergence in trends however, especially from 1998 to 1999. See figure V-5 (world refined prices became available in 1975).

---

[8] The sample variance for U.S. raw sugar is significantly less than the sample variance for world raw sugar at the 0.05 level since 1982. For the entire series (1970-99), the two samples are not significantly different from each other.

V-7

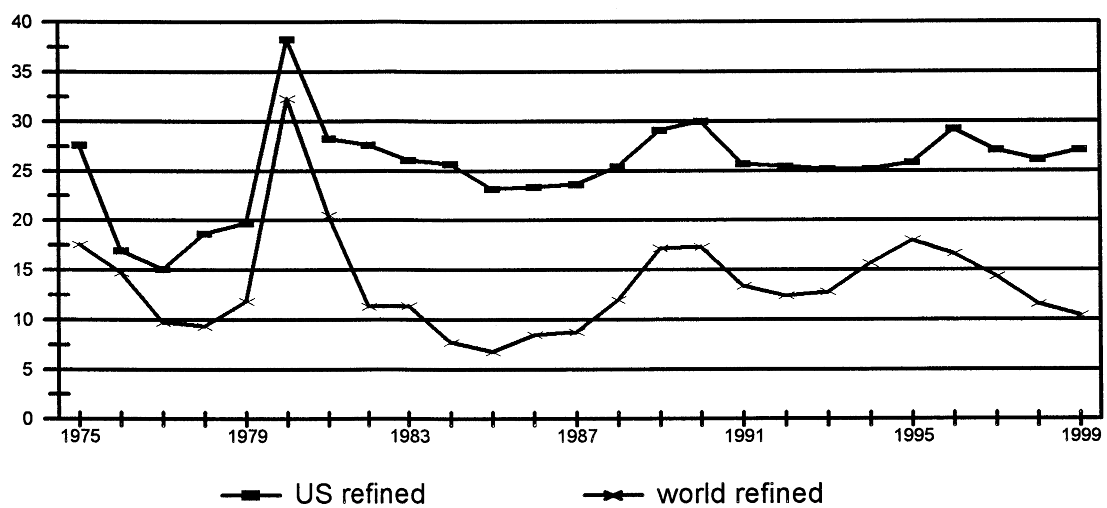
Figure V-4
U.S. and world nominal raw sugar prices in cents per pound, 1970-99[1]



[1] Figures for 1999 represent the first quarter only.

Source: ERS, USDA.

Figure V-5
U.S. and world nominal refined sugar prices in cents per pound, 1975-99[1]



[1] Figures for 1999 represent the first quarter only.

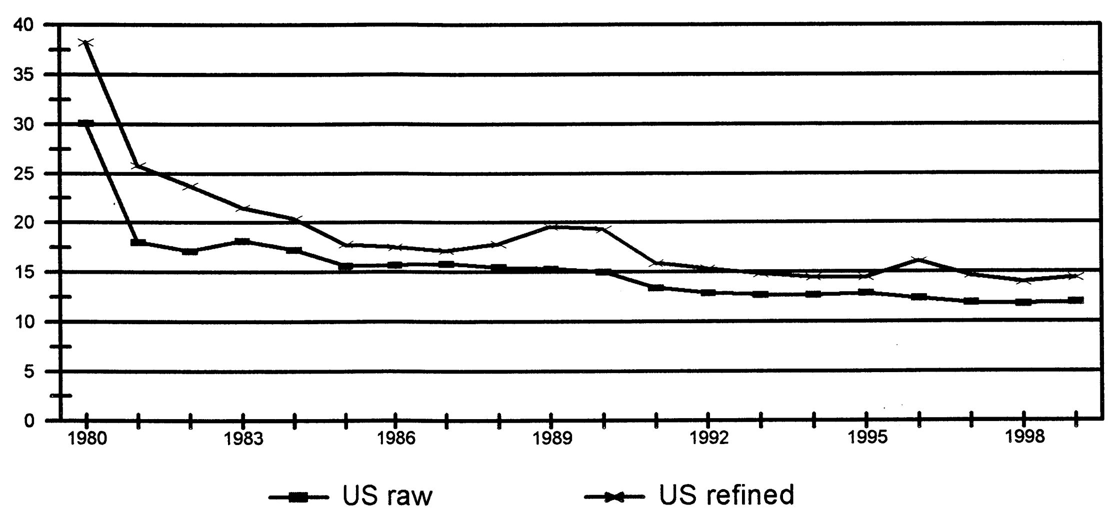
Source: ERS, USDA.

V-8

Economic theory suggests that if all restrictions were removed, prices in the protected economies would decrease and world prices would increase until an equilibrium is reached. Schmitz and Christian (1993)[9] point out that the policies of many countries, which restrict imports of sugar, leave the "world" price of sugar lower than it would be in an open trading environment. They cite a consensus of studies that shows world sugar prices would rise in response to trade liberalization, although the degree of the increase depends on the choice of a model. Due in part to the relatively small portion of sugar trade that takes place at world prices, Schmitz and Christian hold that available evidence indicates that recent U.S. import quotas have primarily protected U.S. producers from prices downwardly distorted by EC policies.

Despite stable nominal prices for U.S. raw and refined sugar, real sugar prices have been declining. As shown in figure V-6, real prices for U.S. raw and refined sugar declined by 60.4 percent and 62.4 percent since 1980. The sharp decline is due in part to the world price spike that occurred in 1980. Since the mid-1980s the downward trends have been less strong. Real raw and refined prices fell by 23.7 and 19.1 percent, respectively, between 1985 and the first quarter of 1999. Unless production costs have experienced similar negative trends relative to general inflation, declining output prices put additional pressure on producers to find cost efficiencies to maintain profit levels.

Figure V-6
U.S. raw and refined sugar real prices (in 1980 currency) in cents per pound, 1980-99[1]



[1] Figures for 1999 represent the first quarter only.

Source: ERS, USDA.

---

[9] Schmitz, Andrew and Douglas Christian, 1989, "The Economics and Politics of U.S. Sugar Policy," in Marks, Steven V. and Keith E. Maskus, eds., *The Economics and Politics of World Sugar Policies*, Ann Arbor: The University of Michigan Press, 1993, pp. 49-78.

V-9

APPENDIX A

FEDERAL REGISTER NOTICES AND THE EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

A-1

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 104–TAA–7 (Review), AA1921–198–200 (Review) and 731–TA–3 (Review)]

Sugar From the European Union, Sugar From Belgium, France, and Germany and Sugar & Syrups From Canada; Institution of Five-Year Reviews Concerning the Countervailing Duty Order on Sugar From the European Union, the Antidumping Duty Orders on Sugar From Belgium, France, and Germany, and the Antidumping Duty Order on Sugar and Syrups From Canada

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union, the antidumping duty orders on sugar from Belgium, France, and Germany, and/or the antidumping duty order on sugar and syrups from Canada would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at *http://www.usitc.gov/rules.htm.*

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background.—On July 31, 1978, the Department of the Treasury issued a countervailing duty order on imports of sugar from the European Union (43 F.R. 33237). There was no Commission determination of material injury by reason of subsidized imports prior to issuance of the order because imports from the European Union were not eligible for an injury test unless they were duty free. However, pursuant to section 104 of the Trade Agreements Act of 1979, the Commission made a determination in May 1982 that the domestic industry producing sugar would be threatened with material injury by reason of subsidized imports of sugar from the European Union if the countervailing duty order covering such imports were to be revoked. On June 13, 1979, following affirmative injury determinations by the Commission, the Department of the Treasury issued antidumping duty orders on imports of sugar from Belgium, France, and Germany (44 F.R. 33878). On April 9, 1980, following an affirmative injury determination by the Commission, the Department of Commerce issued an antidumping duty order on imports of sugar and syrups from Canada (45 F.R. 24126). The Commission is now conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of each five-year review, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are the European Union, Belgium, France, Germany, and Canada.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination concerning sugar from the European Union, the Commission defined the *Domestic Like Product* as beet and cane sugar. In its original determinations concerning sugar from Belgium, France, and Germany, the Commission defined the *Domestic Like Product* as sugar cane and raw cane sugar. In its original determination concerning sugar and syrups from Canada, the Commission defined the *Domestic Like Product* as refined sugar.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination concerning sugar from the European Union, the Commission defined the *Domestic Industry* as growers, processors, and refiners of beet and cane sugar. In its original determinations concerning sugar from Belgium, France, and Germany, the Commission defined the *Domestic Industry* as producers of sugar cane and raw cane sugar in the Southeastern region of the United States. In its original determination concerning sugar and syrups from Canada, the Commission defined the *Domestic Industry* as producers of refined sugar located in the Northeastern States region. In response

to the July 8, 1981, order of the United States Court of International Trade remanding the investigation, one Commissioner defined the *Domestic Industry* differently.

(5) The Order Dates are the dates that the countervailing and antidumping duty orders under review became effective. In the review concerning sugar from the European Union, the Order Date is July 31, 1978. In the reviews concerning sugar from Belgium, France, and Germany the Order Date is June 13, 1979. In the review concerning sugar and syrups from Canada the Order Date is April 9, 1980.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct expedited reviews. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the European Union that currently export or have exported Subject Merchandise to the United States or other countries since 1978 and a list of all known and currently operating U.S. importers of the Subject Merchandise and producers of

the Subject Merchandise in Belgium, France, Germany, and Canada that currently export or have exported Subject Merchandise to the United States or other countries since 1979.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98-26327 Filed 9-30-98; 8:45 am]

BILLING CODE 7020-02-P

01

s

f

e

era

de

ing
02–

e

of

c

ay

m

n

a

7
d
up

on

response was inadequate,[4] and that the respondent interested party group response was inadequate. The Commission further determined that other circumstances warranted full reviews.[5]

A record of the Commissioners' votes and statements are available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 26, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–2229 Filed 1–29–99; 8:45 am]

BILLING CODE 7020–02–P

[4] Chairman Bragg dissenting.

[5] Commissioners Crawford and Askey dissenting.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 104–TAA–7 (Review); AA1921–198–200 (Review); 731–TA–3 (Review)]

Sugar From the European Union; Sugar From Belgium, France and Germany; and Sugar and Syrups From Canada

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty order on sugar from the European Union and concerning the antidumping duty orders on sugar from Belgium, France and Germany; and sugar and syrups from Canada.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union, and the antidumping duty orders on sugar from Belgium, France and Germany, and sugar and syrups from Canada would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: March 4, 1999.

FOR FURTHER INFORMATION CONTACT: John T. Fry (202–708–4157), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1999, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (64 FR 4901, February 1, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the Reviews and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the reviews will be placed in the nonpublic record on June 28, 1999, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on July 15, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 8, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 12, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 6, 1999. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 26, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 26, 1999. On August 31, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 7, 1999, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16 and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 5, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-6062 Filed 3-10-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-078; A-423-077; A-428-082]

Final Results of Expedited Sunset Review: Sugar From France, Belgium and Germany

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

ACTION: Notice of final results of expedited sunset reviews: Sugar from France, Belgium and Germany.

SUMMARY: On October 1, 1998, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping findings on sugar from France, Belgium and Germany (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the bases of the notices of intent to participate and substantive comments filed on behalf of the domestic industry, as well as inadequate responses (in these cases, no responses) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping findings would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

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

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations

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

Scope

The merchandise subject to these antidumping findings is sugar, both raw and refined, with the exception of specialty sugars, from France, Belgium and Germany. The order on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) composed of 85 percent sucrose and 15 percent lactose; (2) have a polished, matte appearance, and more uniformly porous than domestic sugar cubes; (3) produced in two sizes of 2 mm and 3.8 mm in diameter.[1]

The merchandise under review is currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1701.1100, 1701.1101, 1701.1102, 1701.1103, 1701.1105, 1701.1110, 1701.1120, 1701.1150, 1701.1200, 1701.1201, 1701.1202, 1701.1205, 1701.1210, 1701.1250, 1701.9105, 1701.9110, 1701.9120, 1701.9121, 1701.9122, 1701.9130, 1701.9900, 1701.9901, 1701.9902, 1701.9905, 1701.9910, 1701.9950, 1702.9005, 1702.9010, 1702.9020, 1702.9030, 1702.9031, 1702.9032, 2106.9011, 2106.9012, 2106.9042, 2106.9044, and 2106.9046. The HTSUS item numbers are provided for convenience and customs purposes only. They are not determinative of the products subject to the orders. The written description remains dispositive.

These reviews cover all manufacturers and exporters of sugar from France, Belgium and Germany.

Background

On October 1, 1998, the Department initiated sunset reviews of the antidumping findings on sugar from France, Belgium and Germany (63 FR 52683), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate for each of these findings from The United States Beet Sugar Association and The United States Cane Sugar Refiners' Association ("the Associations") on October 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* The Associations claimed interested party status under section 771(9)(E) of the Act as a trade association whose members produce sugar in the United States. We received a complete substantive response from the Associations on November 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), for each of these findings. In each of the substantive responses, the Associations claimed interested party status under subsections 771(9)(C) and 771(9)(E) & (G)(i–iii) of the Act. We did not receive a substantive response from any respondent interested party in these sunset proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and our regulations (19 CFR 351.218(e)(1)(ii)(C)(2)), the Department determined to conduct expedited reviews.

Determination

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

A-10

[1] *See Sugar from France; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Finding,* 61 FR 40609 (August 5, 1996).

Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the finding is revoked.

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

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically, the Statement of Administrative Action ("the SAA"), H.R. Doc., No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

The antidumping findings on sugar from France, Belgium, and Germany were published in the **Federal Register** as Treasury Decision 79-167 (44 FR 33878, June 13, 1979). Since that time, the Department has conducted a number of administrative reviews on each of these findings but found there were no shipments during the periods of review.[2] The findings remain in effect for all imports of the subject merchandise from France, Belgium and Germany.

In its substantive responses, the Associations argue that the actions (the cessation of exports of sugar to the U.S.) taken by French, Belgian and German producers and exporters of sugar during the life of these findings indicate that "revocation of the antidumping and countervailing duty orders on sugar would likely lead to the recurrence of dumping and of a countervailable subsidy" (*see* November 2, 1998, Substantive Responses of the Associations at 2). With respect to whether dumping continued at any level above de minimis after the issuance of these findings, the Associations assert that, as documented in the final results of reviews reached by the Department, dumping levels have remained constant throughout the life of the findings, with margins of 102 percent for French producers and exporters, 103 percent for Belgian producers and exporters and 121 percent for German producers and exporters.

With respect to whether there has been a cessation of imports of the subject merchandise, the Associations stated that, soon after the issuance of the findings, sugar imports from France, Belgium and Germany ceased. The Department confirmed that there were no shipments of subject merchandise from any of the three countries since the late 1970's.[3]

We find that the cessation of imports after the issuance of the findings is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, deposit rates above de minimis levels continue in effect for all shipments of the subject merchandise from each of the three countries. As discussed in Section II.A.3. of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if imports cease after the order is issued, we may reasonably assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. Therefore, absent argument and evidence to the contrary, given that shipments of the subject merchandise ceased soon after the issuance of the findings, and that dumping margins continue to exist, the Department, consistent with Section II.A.3 of the *Sunset Policy Bulletin*, determines that dumping is likely to continue or recur if the findings were revoked.

Magnitude of the Margin

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

In these cases, Treasury published country-wide weighted-average dumping margins for each of the three findings. The rates established were 102 percent for all exports from France, 103 percent for all exports from Belgium and 121 percent for all exports from Germany (44 FR 8949, February 12, 1979).

In its substantive response, the Associations state that the dumping margins for each of these findings are likely to be at least as high as the first margins calculated at the time of the original investigation. In fact, the Associations project, based on current U.S. and EU pricing (which is uniform in all EU countries), a dumping margin of 263 percent *ad valorem* would prevail if the findings were revoked.[4]

The Department finds that the country-wide weighted-averaged margins calculated in the original investigations are probative of how French, Belgian and German producers and exporters of sugar would act if the findings were revoked. However, with respect to the projected dumping

---

[2] *See Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 46 FR 22778 (April 21, 1981); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 47 FR 3399 (January 25, 1982); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 48 FR 1786 (January 14, 1983); and *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 49 FR 43738 (October 31, 1984).

[3] *See Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 46 FR 22778 (April 21, 1981); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 47 FR 3399 (January 25, 1982); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 48 FR 1786 (January 14, 1983); and *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding*, 49 FR 43738 (October 31, 1984) in which the Department found no shipments by any of the companies reviewed.

[4] The Associations also project, on a constructed value basis, a dumping margin of 153.73 percent from France, 152.07 percent from Belgium and 220.54 percent from Germany. *See* November 2, 1998, Substantive Responses of the Associations, at 21 and 22.

margins calculated by the Associations, we note that the SAA at 890–891 provides that, only in the most extraordinary circumstances, will the Department rely on dumping margins other than those it calculated and published in its prior determinations. The *Sunset Regulations* at 19 CFR 351.218(e)(2)(i) explain that "extraordinary circumstances" may be considered by the Department in the context of a full sunset review, where the substantive responses from both domestic and respondent interested parties are adequate. In these cases, however, the Department determined to conduct expedited sunset reviews because the respondents did not submit any substantive responses to the notice of initiation. Thus, in light of the inadequate responses, the Department will not consider whether, in these sunset reviews, it should rely on margins other than the rates from the original investigations.

Therefore, consistent with the *Sunset Policy Bulletin,* we determine that the original margins calculated by Treasury are probative of the behavior of the French, Belgian and German producers and exporters of sugar if the findings were revoked. We will report to the Commission the country-wide margins contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping findings would be likely to lead to continuation or recurrence of dumping at the levels indicated below:

Manufacturers/exporters	Margin (percent)
All French Manufacturers/Exporters	102
All Belgian Manufacturers/Exporters	103
All German Manufacturers/Exporters	121

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-2672 Filed 2-3-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–085]

Final Results of Full Sunset Review: Sugar and Syrups From Canada

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

ACTION: Notice of Final Results of Full Sunset Review: Sugar and Syrups from Canada.

SUMMARY: On April 26, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the antidumping duty order on sugar and syrups from Canada (64 FR 20253) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties. As a result of this review, the Department finds that revocation of this order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

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

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

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

Scope

The merchandise subject to the antidumping duty order is sugar and syrups from Canada produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar.[1] The subject merchandise is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 1701.99.0500, 1701.99.1000, 1701.99.5000, 1702.90.1000, and 1702.90.2000. Although the subheadings are provided for convenience and customs purposes, the written description remains dispositive.

On March 24, 1987, the Department revoked the order, in part, with respect to Redpath Sugar Ltd. ("Redpath") (52 FR 9322). On January 7, 1988, the Department revoked the order, in part, with respect to Lantic Sugar, Ltd. ("Lantic") (53 FR 434). In 1996, the Department determined that Rogers Sugar, Ltd. ("Rogers"), was the successor in interest to British Columbia Sugar Refining Company, Ltd. ("BC

[1] This order excludes icing sugar decorations as determined in the U.S. Customs Classification of January 31, 1983 (CLA-2 CO:R:CV:G).

A-13

Sugar").[2] In its November 2, 1998, substantive response, the United States Beet Sugar Association and its individual members (collectively, the "USBSA") stated that three companies in Canada constitute the Canadian domestic industry: Lantic, Redpath, and Rogers. Because the order was revoked with respect to Lantic and Redpath, only Rogers is currently subject to the order.

Background

On April 26, 1999, the Department issued the Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada (64 FR 20253). Based on the continued absence of a dumping margin for Rogers, the sole producer/exporter subject to the order, and the continued existence of imports from Rogers in substantial quantities, in our preliminary results we found that revocation of the order is not likely to lead to continuation or recurrence of dumping.

We conducted verification in Taber, Alberta, of Rogers' response on May 12, 1999, and issued our verification report on May 19, 1999. On June 8, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of the USBSA and on behalf of Rogers. On June 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from both the USBSA and Rogers. The Department held a public hearing on June 18, 1999.

As a result of the comments, we have changed our determination. We have addressed the comments received below.

Likelihood of Continuation or Recurrence of Dumping

Comment 1: The USBSA asserts that sugar produced at Rogers' Taber facility will have to be sold below constructed value ("CV") and therefore will be dumped when it enters the U.S. market. The USBSA asserts that, despite repeated requests, the Department did not conduct a CV analysis in which an accurate calculation of CV could be compared to Rogers' selling price on current U.S. sales. Relying on the 1998 cost of production ("COP") contained in the verification report, which the USBSA asserts does not include all costs, the USBSA states that it calculated a CV. The USBSA asserts that this and evidence of Rogers' pricing in 1996, which is on the record, demonstrates that Rogers sold sugar in the United States at prices below CV. Additionally, the USBSA argues, the recent improvements made at Rogers' Taber facility will increase its COP and force Rogers to sell sugar at below cost prices. Asserting that the recent downward spiral in world prices makes dumping by Rogers more pervasive, the USBSA requests that the Department revisit the CV analysis and conclude that dumping is likely to continue or recur if the order is revoked.

In its rebuttal brief Rogers cites to the Department's Policy Bulletin 94–1 regarding COP and asserts that the Department found USBSA's allegations of below-cost sales speculative correctly, thereby falling short of the standard for providing reasonable grounds for suspecting that Rogers made sales at below cost prices. Further, Rogers argues, the Department is not required to do a COP investigation in reviews when there is no earlier determination of below-cost sales and there has been no reasonable evidence submitted which suggests that sales at prices less than COP were made.

Rogers notes that the Department looked correctly at the cost basis for sugar beet production and at the audited financial statements of Rogers during verification. Rogers asserts that the verified information confirmed its submissions showing sales in Canada and the United States at prices significantly above the COP. Additionally, Rogers asserts that the verified information shows that profits were made and distributed by Rogers in every year of the period covered by the Department's sunset review. With respect to the Taber facility expansion, Rogers argues that the consolidation and expansion of its facilities has only increased its cost efficiencies. Rogers provided information from an independent audit of the expansion in support of this assertion. Further, Rogers argues that the wholly speculative CV constructed by USBSA does not reflect actual numbers provided to, and verified by, the Department. In conclusion Rogers asserts that there is no credible evidence on the record that would lead to a decision by the Department to conduct a CV analysis.

Department's Position: The Department's *Sunset Policy Bulletin* notes that the Department will consider other factors (such as prices and costs) in full sunset reviews where an interested party identifies good cause through the provision of information or evidence that would warrant consideration of such factors. In our preliminary results, we determined that the USBSA did not provide evidence of good cause to support our consideration of other factors.

Rogers, in its November 3, 1998, substantive response, provided information to the Department concerning its COP for processed beets to support its argument that prices were above cost. Although we had not requested the information and had determined for the preliminary results that there was no basis to consider such additional information, because Rogers had presented the information in its substantive and rebuttal responses, we conducted an on-site verification of this information on May 12, 1999 (*see* Memorandum to Jeffrey May, Re: Sunset Review: Sugar and Syrups from Canada, dated May 19, 1999). Therefore, we agree with both parties that verified information related to Rogers' 1998 COP is now on the record in this review. In addition, verified information on Rogers' Canadian and U.S. sales prices for the years 1993 through 1997 is on the record.

As noted above, the USBSA's pre-hearing brief contained an allegation of sales below cost, based on verified information already on the record. Rogers did not rebut this allegation; rather, Rogers claimed that its verified submissions show sales in Canada and the United States at prices significantly above COP. For the purpose of our final results we considered this allegation.

We have analyzed the verified information and find that it provides sufficient support for a determination that dumping is likely to continue or recur if the order were revoked. The Department normally will not, and has no reason to, conduct a cost investigation in the context of a sunset review. However, both USBSA and Rogers' arguments concerning likelihood of continuation of dumping revolve around whether or not pricing and cost data indicate that dumping has been taking place. The Department, therefore, has conducted a sort of abbreviated cost test with the limited data on the record.

Specifically, using the verified information, the Department constructed a COP and CV (per metric ton) of processed sugar (*see* Memorandum to File, Re: Cost of Production, dated August 20, 1999). Section 773(b)(1) of the Act provides that the Department will disregard below cost sales made within an extended period of time in substantial quantities and which were not made at prices which permit recovery of all costs within a reasonable period of time. We compared Rogers' verified weighted-average home market price to the COP and found that it was below the COP.

A-14

[2] *See* Sugar and Syrups from Canada; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 61 FR 51275 (October 1, 1996).

Specifically, we compared a weighted-average home market price, based on 1997 price data supplied by Rogers, with a COP based on 1998 costs derived from Rogers' data. We found the weighted-average price to be below the COP. Based on this limited data, we determine, therefore, that Rogers made below cost sales within an extended period of time in substantial quantities at prices which did not permit recovery of all costs within a reasonable period of time. Because there are, in essence, no remaining above cost sales, we compared Rogers' verified average U.S. export selling price to the CV. We found that this average price was below CV. Based on this comparison, we conclude that at least some of Rogers sales to the United States are at prices below CV.[3] These calculations, using verified information, therefore, provide a sufficient basis for determining that dumping is likely to continue or recur if the order were revoked.

Comment 2: The USBSA disagrees with the Department's preliminary decision that revocation of the order would not be likely to lead to continuation or recurrence of dumping. The USBSA argues that the Department incorrectly and unlawfully equated the domestic industry's decision not to request an administrative review of this order over the past 16 years as a lack of interest in the order. Furthermore, the USBSA argues that its decision not to request an administrative review does not indicate an absence of dumping by Rogers.

Rogers, in its rebuttal comments, argues that the USBSA admits that it was satisfied with the status quo and the status quo, with respect to this order, was a deposit rate of zero. If the USBSA was satisfied with this zero deposit rate, according to Rogers, it must have believed that no dumping was occurring. Rogers argues further that it has been the Department's practice to revoke orders where there have been several years of zero margins. With respect to this sunset review, Rogers argues that the burden is on the domestic industry to demonstrate why the existence of a zero percent deposit rate for 16 years coupled with exports of the subject merchandise in substantial quantities is not sufficient to determine that revocation of the order would not be likely to lead to continuation or recurrence of dumping.

Department's Position: We disagree with the USBSA's assertion that we equated the domestic industry's decision not to request an administrative review with a lack of interest in the order. Nowhere in our preliminary results did we state that the domestic industry's decision not to request an administrative review over the last 16 years was tantamount to having no interest in the continuation of this order. In our preliminary results we attempted to ascertain the likelihood of continuation or recurrence of dumping. In doing so, the Department examined the deposit rates over the life of the order for Rogers, the only producer/exporter of Canadian sugar still subject to the order. The deposit rate for Rogers has been zero percent for the past 16 years. Because there has been no request by the domestic industry for an administrative review of this order for the past 16 years, we had no reason to believe that Rogers had dumped sugar in the United States during any part of this time period.

Furthermore, the preamble to the Department's regulations concerning revocation of orders states that "it is reasonable to presume that if subject merchandise, shipped in commercial quantities, is being dumped or subsidized, domestic interested parties will react by requesting an administrative review to ensure that duties are assessed and that cash deposit rates are revised upward from zero. If domestic interested parties do not request a review, presumably it is because they acknowledge that subject merchandise continues to be fairly traded" (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27326 (May 19, 1997)).

Therefore, this factor points to a finding of no dumping since the issuance of the zero deposit rate. This would generally be our conclusion, except where, as here, information on the record is sufficient to determine dumping is likely to continue or recur.

Comment 3: The USBSA argues that the Department erred by making its likelihood determination on an order-wide basis. It argues that, although the Statement of Administrative Action ("the SAA")[4] at 879 states expressly that the Department will make its sunset determinations on an order-wide basis, the Department improperly compared recent import data for only one respondent (Rogers) to data following the issuance of the order for one respondent (BC Sugar). If the Department had made the proper comparison of total pre-order imports to total post-order imports, according to the USBSA, the Department would have no alternative but to conclude that import volumes have declined significantly during the life of the order.

Rogers did not address this comment.

Department's Position: The Department disagrees with the USBSA. Prior to the issuance of the order, Rogers was not the only exporter of subject merchandise. Other Canadian producers and exporters were subject to the original investigation and subsequent order. In its November 2, 1998, substantive response, however, the USBSA acknowledges that only Rogers is currently subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). Therefore, comparison of Rogers' pre-and post-order import volumes was approriate.

On October 1, 1996, the Department determined that Rogers was the successor in interest to BC Sugar. In this determination, the Department found that BC Sugar changed its name legally to Rogers Sugar, Ltd. Because the structure and organization of the company did not change and Rogers was, for all intents and purposes, BC Sugar, the Department also determined that the deposit rate assigned to BC Sugar was applicable to Rogers. Therefore, the Department determined that, for the purposes of this antidumping duty order, BC Sugar and Rogers were predecessor and successor companies, respectively, of the same entity.

Because Rogers (formerly BC Sugar) is the only producer/exporter of sugar and syrups from Canada still subject to the order, the Department finds that it would be unreasonable to compare the present import volumes of Rogers with the pre-order import volumes of the four (or more) producers/exporters which were subject to the order in 1980. If it made this comparison, the Department would almost certainly find that total imports had decreased over the life of the order not only because there are fewer producers/exporters which are currently subject to the order but also because the tariff rate quota (TRQ) currently in effect restricts imports. Generally speaking, the purpose of the Department's comparison of current and pre-order import volumes is to determine whether companies (or the company) have been able to consistently and continually sell subject merchandise in the United States without dumping. Here, we compared the volume of BC Sugar's 1979 exports to the volume of Rogers' recent exports. Current imports of subject merchandise from Rogers (formerly BC Sugar) are

[3] Absent specific information, we did not make any adjustments to U.S. prices, as we would in an investigation or administrative review conducted for the purpose of measuring dumping. Such adjustments typically would result in a reduction of U.S. price and, therefore, an increase in the magnitude of the dumping margin.

[4] H.R. Doc. No. 103-316, vol. 1 (1994).

substantially greater than the pre-order levels of BC Sugar (now Rogers). Therefore, our examination of import levels of BC Sugar/Rogers over the life of the order was appropriate.

Comment 4: The USBSA argues that the Department should have confirmed whether Canadian producers and refiners of subject merchandise have imported at dumped prices since the discipline of the order went into effect. The USBSA asserts that the Department's comparison should have included imports of refined cane and beet sugar from all Canadian exporters, except Lantic and Redpath, for which the order has been revoked. Furthermore, the USBSA argues that the Department never attempted to verify whether new Canadian sugar refiners have entered the market and instead limited its review to those producers previously involved in the initial investigation.

Department's Position: In its November 2, 1998, substantive response, the USBSA itself stated that only Rogers was subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). There is no evidence on the record in this case of any other Canadian producer/exporter of cane or beet sugar which is currently subject to the order. Therefore, because we had no reason to doubt the USBSA's claim that Rogers is the only producer/exporter of subject merchandise still subject to this antidumping duty order, we have not investigated whether other Canadian producers exported subject merchandise to the United States.

Comment 5: The USBSA argues that the Department included non-subject merchandise in its examination of imports of sugar and syrups from Canada. The USBSA states further that increases in the imports of non-subject merchandise are irrelevant to this sunset review and their inclusion in the Department's examination is misrepresentation of the true amount of imports of subject merchandise.

Department's Position: Increases or decreases in non-subject merchandise are irrelevant to our sunset determination. For this reason, the Department has endeavored to determine an accurate amount of import volumes of the subject merchandise.

In the instant case, however, there are limitations to the data which do not make an exact accounting of the import volumes possible. The HTS item numbers used by the U.S. Census Bureau and the U.S. Customs Service with respect to imports of sugar and syrups from Canada include some non-subject merchandise. Furthermore, the age of this information in question and changes in the HTS system over the life of this order make estimation of imports of subject merchandise necessary. As noted above, the Department recognizes that there are data limitations. The Department has, nevertheless, attempted to compile the most accurate calculation of import volumes of subject merchandise over the life of the order.

Comment 6: The USBSA argues that the TRQ is no longer an effective means of preventing surges in dumped sugar from entering the U.S. market. The USBSA argues further that the U.S. Sugar Program is under assault in an attempt to expand access to the U.S. market significantly.

Department's Position: We agree with the USBSA that the TRQ has been effective in the past at limiting all imports of sugar. The TRQ, as part of the U.S. Sugar program, was designed to provide protection from imports of foreign sugar. However, the USBSA misunderstands the intent behind the creation and implementation of an antidumping duty order. The purpose behind this order is not to provide blanket protection from all imports of Canadian sugar; rather, its purpose is to counteract the effects of unfairly traded imports. This is evidenced by the fact that this order has been revoked with respect to Redpath and Lantic because the Department determined that these companies were not selling sugar in the United States at less than fair value. In the same vein, the TRQ was not created to be a substitute for an antidumping duty order, nor should it be viewed as such. The TRQ provides the U.S. industry protection from all imported sugar. It was not intended to act as an antidumping duty order on sugar from all of the world's sugar producers, whether their sugar was being sold at dumped prices or not.

The only issue in this sunset review is whether Canadian sugar and syrups are likely to be dumped in the United States in the foreseeable future. Whether the TRQ is no longer effective in limiting imports, dumped or not, is irrelevant to this sunset review.

Comment 7: The USBSA argues that the sugar market has fallen to unprecedented levels and shows no signs of recovery in the foreseeable future. The USBSA argues further that the Department, in its preliminary results, quickly dismissed the USBSA's argument as speculative when the conduct of sunset reviews is inherently speculative.

Rogers rebuts that an analysis of long-term trends in the history of the international sugar market shows that price peaks and troughs are characteristically short-lived. It states that the most recent severe price trough was in 1985 when the annual average price for raw sugar was $0.04/lb. Furthermore, Rogers argues that the current price trough appears to have bottomed out in April 1999 at about $0.04/lb. for raw sugar.

Rogers continues by reiterating that the USBSA's arguments concerning the declining world price for sugar are speculative and subjective which, Rogers notes the USBSA admits, may change depending on unpredictable events and changes in circumstances in producing and importing countries.

Department's Position: Sunset determinations are inherently speculative and predictive and, in our preliminary results, we stated that the USBSA's arguments concerning the decreases in world sugar prices were speculative. We also believe that, since sunset reviews are inherently predictive, the best predictor of future behavior is past behavior. In examining the world sugar prices over the life of the order, we find that, although prices in early 1999 are at their lowest point in 12 years, generally prices have fluctuated over this time, with prices in fiscal year 1998 being only marginally below fiscal year 1993 prices. We also find that the current prices for refined sugar are not unprecedented, as Rogers' information concerning 1985 raw sugar prices demonstrates.

Comment 8: The USBSA argues that the recent downward spiral of the world refined-sugar price has a direct impact on Canadian prices and incentives to export to the United States. According to the USBSA, with a world price standing near $0.09/lb. and a Canadian price that Rogers argues mimics the world price, it is inescapable that Rogers' home market sales in Canada are today priced at less than cost and will be so priced in the future. As the record in this proceeding shows, the USBSA contends, not even the most efficient sugar producers can produce sugar for around $0.09/lb.

Rogers argues that it has had a zero margin through 16 years of world price fluctuations, including times of prices lower than at present, while maintaining a dumping margin of zero. It states that the Department verified its information and that the verification demonstrated that sales in Canada and the United States are at prices significantly above cost of production.

Furthermore, Rogers states that, since prices in the United States were verified as higher than prices in Canada, there is no credible way Rogers could have been selling below the COP.

Department's Position: The recent decreases in the world refined-sugar price undoubtedly affected the Canadian price of refined sugar because the Canadian price parallels the world price. Although the Canadian price parallels the world price, it is not the same as the world price. Therefore, it is quite reasonable to assume, given Rogers' costs of manufacturing and the transportation costs associated with the location of its sales within Canada, that the selling price of its product could be above its cost of manufacturing and still be competitive with other producers/exporters.

The world price of refined sugar obviously affects the selling price of sugar in Canada and, thus, indirectly, may affect Rogers' selling price. Nevertheless, the salient issue for this sunset review is not the world price of refined sugar but, rather, Rogers' costs and prices. Thus, we have limited our examination to Rogers' costs and prices.

Comment 9: The USBSA states that, as the United States slowly reduces the Canadian tier-2 tariff rate through 2008, the U.S. market will become increasingly vulnerable to imports of Canadian sugar if the world price of sugar falls below certain levels. Specifically, the USBSA argues that, given the world refined price of $0.0913/lb., the ability of Canadian producers to export refined sugar to the United States profitably while paying the tier-2 tariff is already becoming a reality.

Rogers argues that, given the current U.S. selling price of $0.28/lb., with the addition of the tier-2 duty of $0.1621/lb., Rogers would be required to sell in the United States at prices significantly below the lowest price it now receives for the same product in Canada. Furthermore, Rogers asserts, its production is not in excess of market demand in Western Canada. Finally, according to Rogers, the refusal of sugar beet growers to participate and support prices low enough to take account of the tier-2 level (which would be necessary to sell any product in the United States) would make such sales prohibitive.

Department's Position: The Department finds no evidence to suggest that Rogers would sell sugar in the United States above the country-specific quota established for Canada (i.e., paying the tier-2 tariff rate).[5] In order for Rogers to sell sugar in the United States and pay the tier-2 tariff rate, Rogers would have to sell its product (1) at prices substantially less than the lowest price it receives for a similar product sold in Canada, (2) at prices far below its costs of production, and (3) at prices far below the current world price of refined sugar. The Department finds it extremely unlikely that Canadian producers could export refined sugar to the United States *profitably* while paying the tier-2 tariff.

Magnitude of the Margin

Neither party addressed this issue in its case or rebuttal briefs. Therefore, we have relied on the arguments submitted prior to the preliminary results.

Comment 1: In its substantive response, the USBSA argued that the dumping margin likely to prevail is at least as large as the margin that prevailed at the time of the original investigation; the highest dumping margin established in the original investigation was US$0.0237/lb.[6] Further, based on current U.S. and Canadian pricing, the USBSA estimated dumping margins ranging from 9.3 percent to 409.0 percent. As noted above, the USBSA did not comment on the margin likely to prevail in either its case or rebuttal brief.

In its substantive response, Rogers argued that, given the price spread between the U.S. supply-managed sugar market and the Canadian market based on world pricing, the dumping margin likely to prevail if the order were to be revoked is zero. Rogers argued that, because of its limited access to the U.S. market, it is motivated to sell subject merchandise at U.S. refined-sugar prices to maximize returns. Rogers provided a chart depicting sugar prices in the Canadian and U.S. markets and its price into the United States for the past eight years, as well as a calculation for producing processed beet sugar at its facility in Canada. Rogers contended that the chart indicates that Rogers' price into the United States has been above its prices in Western Canada. In its case and rebuttal briefs, Rogers also asserted that there is no likelihood of continuation or recurrence of dumping if the order were to be revoked.

Department's Position: The Department disagrees with Rogers. As discussed in detail above, evidence placed on the record of this sunset review by Rogers, and verified by the Department, indicates that there is a likelihood that dumping would continue or recur if the order were to be revoked.

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the International Trade Commission (the "Commission") the margin that was determined in the final determination in the original investigation because that is the only calculated rate that reflects the behavior of exporters absent the discipline of the order. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In our preliminary results, we determined that the use of a more recently calculated rate was appropriate and that such rate reflected an absence of dumping. However, as noted above, for our final results, we find that verified information demonstrates the likelihood of dumping. Therefore, we conclude that the more recently calculated rate from an administrative review can no longer be considered the magnitude of the margin likely to prevail if the order were revoked.

We agree with the USBSA that the dumping margin likely to prevail if the order were to be revoked is at least as high as the dumping margin determined in the original investigation for BC Sugar. We recognize that our dumping calculation for purposes of determining likelihood of future dumping is not as accurate as a determination which would reflect the adjustments typically made in an investigation or administrative review. Therefore, the Department finds that the margins calculated in the original investigation (45 FR 24126, April 9, 1980)[7] are probative of the behavior of Canadian producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation as the magnitude of the margin likely to prevail if the order were revoked.

Final Results of Review

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

---

[5] The Department notes that the USBSA has examined the effects of the Canadian tier-2 tariff rate on the possibility of increased imports from Canada through the year 2008. However, the USBSA has stringently argued that the TRQ will be phased out by the year 2002.

[6] *See Antidumping Duty Order; Sugar and Syrups from Canada*, 45 FR 24128 (April 9, 1980).

[7] As the Department noted in its preliminary results (*see Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada*, 64 FR 20253 (April 26, 1999)) and above, Rogers (formerly BC Sugar) is the only known producer/exporter of the subject merchandise currently subject to the order.

Manufacturer/exporter	Margin
Rogers (B.C. Sugar)	$0.010105/lb.
All Others	0.023700/lb.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: August 27, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-23039 Filed 9-2-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Final Results of Full Sunset Review: Sugar From the European Community

[C–408–046]

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

ACTION: Notice of Final Results of Full Sunset Review: Sugar From the European Community.

SUMMARY: On April 26, 1999, the Department of Commerce ("the Department") issued the preliminary results of full sunset review of the countervailing duty order on sugar from the European Community ("the EC") (64 FR 20257) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received comments filed on behalf of domestic interested parties. As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Final Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution, N.W., Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 13, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The merchandise subject to this countervailing duty order is sugar, with the exception of specialty sugars (*e.g.*, cones, hats, pearls, loaves), from the European Community. Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order. According to the final results of the Department's most recent administrative review, the merchandise subject to this order is currently classifiable under item numbers 1701.11.00, 1701.12.00, 1701.91.20, and 1701.99.00 of the Harmonized Tariff Schedule of the United States ("HTSUS") (*see* Sugar From the European Community; Final Results of Countervailing Duty Administrative Review, 55 FR 35703 (August 31, 1990). In their substantive response, the domestic interested parties asserted that the merchandise subject to the order is currently classifiable under item numbers 1701.11.0025, 1701.11.0045, and 1702.90.300 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Background

On April 26, 1999, the Department issued the Preliminary Results of Full Sunset Review: Sugar From the European Community (64 FR 20257). In our preliminary results, we found that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy. Further, we found the net countervailable subsidy likely to prevail if the order were revoked is 10.80 cents per pound, the subsidy from the original investigation. Finally, we found that, although qualifying as a countervailable export subsidy, Article 3 of the Subsidies Agreement did not apply to the export restitution payments program.

On June 8, 1999, we received comments on behalf of the United States Beet Sugar Association and its individual members and the United States Cane Sugar Refiners' Association and its individual members (collectively "the Associations"), within the deadline specified in 19 CFR 351.309(c)(1)(i). We did not receive comments from respondent interested parties.

Comments

Comment 1: The Associations assert that the Department's preliminary determination that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy was appropriate and should be maintained for the final results. The Associations further assert that the Department properly applied the relevant standards, and the record in the underlying sunset review cannot support any alternative conclusion.

Department Position: We agree with the Associations. For the reasons enunciated in our notice of preliminary results (*see* Preliminary Results of Full Sunset Review: Sugar From the European Community, 64 FR 20257 (April 26, 1999)), we continue to find that revocation of the countervailing duty order would likely lead to continuation or recurrence of a countervailable subsidy.

Comment 2: The Associations assert that the Department correctly concluded that the export restitution payments on European sugar constitute a countervailable subsidy. However, they argue that the Department incorrectly concluded that the subsidies are exempt from Articles 3 and 6 of the Subsidies Agreement.

The Associations argue that the respondent foreign government and/or industry bears the burden of demonstrating that the export subsidy program at issue is in conformance with the provisions of Part V of the Agreement on Agriculture before the Department may properly determine that the program is exempt from Articles 3, 5, or 6 of the Subsidies Agreement. Further, the Associations assert that the European Commission failed to place evidence on the record or set forth arguments supporting the proposition that the restitution payment system under the CAP conforms to Part V of the Agreement on Agriculture. The Associations assert that in their substantive response they had presented significant evidence that the sugar restitution payments under the CAP have repeatedly been found to violate GATT/WTO principles. Additionally, they assert that they had presented further evidence showing that it is likely that the European Union ("EU") will be unable to meet its GATT/WTO commitments to reduce the levels of these export subsidies, in light of the increasing gap between the EU and world price of sugar and the likely accession of ten new member states to the EU in the near term.

In conclusion the Associations argue that the EU's sugar export restitution payments most certainly constitute a prohibited countervailable subsidy, whether under Article 3 of the Subsidies Agreement or under Article 13(c) of the Agreement on Agriculture.

Department's Position: We disagree with the Associations' assertion that the burden is on the respondent government and/or exporters to provide evidence demonstrating that the export subsidy program at issue is in conformance with the provisions of Part V of the Agreement on Agriculture before the Department may properly determine that the program is exempt from Articles 3, 5, or 6 of the Subsidies Agreement. While the provision of such evidence would certainly aid the Department in its determination, failure of the respondent government to provide such evidence does not preclude the Department from finding that the program is in conformance with the provisions of Part V of the Agreement on Agriculture.

Further, we do not agree with the Associations that the evidence they presented regarding prior determinations is sufficient to find this program is a prohibited subsidy under the WTO Agreements. The Associations referred to prior determinations by Treasury, Commerce, the Commission, and the Canadian International Trade Tribunal, that export restitution payments under the CAP are countervailable subsidies. We agree that each of these determinations supports a finding that the program is a countervailable export subsidy; however, they do not address the question of whether the program is a prohibited export subsidy under the Subsidies Agreement. In addition, the Associations refer to the GATT Dispute Panel Report on Complaint by Brazil Concerning EC Refunds on Exports of Sugar (adopted November 10, 1980) and the GATT Dispute Panel Report on Complaint by Australia Concerning EC Refunds on Exports of Sugar (adopted November 6, 1979). While both of these adopted Panel Reports held that the CAP sugar regime constitutes a form of subsidy subject to the provisions of Article XVI of the GATT, neither of these reports addresses the question of whether the program is in conformance with the provisions of Part V of the WTO Agreement on Agriculture.

As to the Associations' assertions that falling world sugar prices and the pending application of ten new former Eastern bloc countries currently seeking admission to the EU make it, at best, uncertain whether the EU will be able to meet its commitments to reduce export subsidies, we find these allegations insufficient to support a finding that the program is not in conformance with Part V of the WTO Agreement on Agriculture.

Article 13(c) of the Agreement on Agriculture states that export subsidies conforming to the provisions of Part V of the Agreement on Agriculture shall be exempt from actions based on Article

XVI of GATT 1994 or Articles 3, 5, and 6 of the Subsidies Agreement. Part V of the Agreement on Agriculture, specifically Articles 8 and 9, refers to the export subsidy commitments as specified in the Schedule of each Member. Nothing on the record suggests that the restitution payments on sugar do not conform to the commitments as reflected in the EU's Schedule. Therefore, we continue to find that, although qualifying as a countervailable export subsidy, Articles 3 and 6 of the Subsidies Agreement do not apply to the export restitutions payment program on sugar under the CAP.

Comment 3: The Associations argue that the Department should make an upward adjustment to the net countervailable subsidy rate to arrive at a rate that represents the countervailing duty rate likely to prevail if the order is revoked. The Associations assert that the evidence set forth in their substantive response supports a net countervailable subsidy rate of 27.97 cents/pound of sugar and that even the data presented in the EC's response supports a net subsidy rate of 18.61 cents/pound of sugar. The Associations argue that, in the present case, because the investigation rate is based on data that is more than 20 years old and both domestic and foreign interested parties have provided the Department with more recent data establishing a current net subsidy rate of at least 18.61 cents/pound, there is sufficient cause for the Department to make an exception to the general rule of selecting the subsidy rate from the original investigation.

In conclusion, the Associations request that the Department make an upward adjustment to the countervailing duty rate likely to exist in the event of revocation to reflect the current prevailing rate of 27.97 cents/pound, or 18.61 cents/pound at a minimum.

Department's Position: In sunset reviews, the Department is assigned the responsibility of providing to the International Trade Commission ("the Commission") the magnitude of the net countervailable subsidy that is likely to prevail if the order is revoked. For purposes of determining whether revocation of a countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs the Department to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. The Department noted in its Sunset Policy Bulletin that, consistent with the Statement of Administrative Action ("the SAA") [1] at 890, and the House Report [2] at 64, the Department normally will select a rate from the investigation, because that is the only rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place (*see* section III.B.1 of the Sunset Policy Bulletin). Additionally, the Department noted that the rate from the investigation may not be the most appropriate if it was derived from a subsidy program which was found in a subsequent review to have undergone a program-wide change (*see id.* at section III.B.3).

The Department defines "program-wide change" as a change that (1) is not limited to an individual firm or firms and (2) is effectuated by an official act, such as the enactment of a statute, regulation, or decree, or contained in the schedule of an existing statute, regulation, or decree.[3]

As described in numerous **Federal Register** notices regarding the underlying investigation and administrative reviews, export restitution payments made under the CAP are a means of guaranteeing sugar producers a stated export price for sugar (see e.g., Sugar From the European Community; Preliminary Results of Countervailing Duty Administrative Review, 55 FR 28799 (July 13, 1990)). Further, export restitution payments are only granted when the world price of sugar as established in international markets is lower than the "threshold price" established by the EC. Changes in the world market price are not effectuated by the EC. However, the "threshold price," the amount of restitution payments to be provided, are determined by the EC, effectuated by regulation, and published in the Official Journal. As such, these changes constitute program-wide changes that the Department may consider in determining the net countervailable subsidy likely to prevail if the order were revoked.

Therefore, in a change from our preliminary results, we agree with the Associations that the Department should determine the net countervailable subsidy likely to prevail were the order revoked based on more recent information. In its substantive response, the EC identified the average export refund for marketing years 1995/1996, 1996/1997, and 1997/1998. In its substantive response, the Committee calculated a subsidy rate based on the export refund rate from October 1998. Because, as the Committee argues, the world price of sugar has been declining since 1995, we determine that recent data would more closely approximate the level of subsidy if the order were revoked than would the subsidy levels from the original investigation or administrative reviews conducted in the early 1980's.

We do not, however, agree with the Associations' suggestion that a rate based on an October 1998 announcement is the most appropriate. Over the 1995–1998 time period, the average export refund has varied from year to year and we do not have a basis to select one year over the other as the most probative rate. Because we must provide the Commission with the rate likely to prevail in the future based upon past experience, we have determined that an average of the marketing year refunds since the implementation of the WTO Agreement on Agriculture, as reported in the EC's response, is an appropriate representation of the net countervailable subsidy likely to prevail if the order were revoked. On this basis, we find that the net countervailable subsidy likely to prevail were the order revoked is 23.69 cents per pound of sugar, the rate established by the record as reflecting recent trends in the level of export refunds.

Comment 4: The Associations argue that the Department's determination to conduct a full sunset review is plainly inconsistent with its own regulations, and will have the effect of rendering the provision of 19 CFR 351.218(e)(3)(ii) meaningless in all countervailing duty sunset determinations going forward. Specifically, the Associations assert that none of the foreign respondent producers filed any substantive responses to the notice of initiation and, therefore, the Department should have determined that it did not receive adequate response since it did not have complete substantive responses from respondent interested parties accounting on average for more than 50 percent of the total exports of the subject merchandise. Given that the legislative history contemplates that a response from the foreign government in addition to responses from the foreign industry respondents is essential to the sunset determination, foreign governments are not entitled to a full review where all of the industry participants that the government

[1] H.R. Doc. No. 103–316, vol. 1 (1994).

[2] H.R. Rep. No. 103–826, pt. 1 (1994).

[3] *See* 19 CFR 351.526 (1999), which although not applicable to this sunset review, nonetheless provides guidance on the Department's policy.

A21

presumably represents have failed to respond.

In conclusion, the Associations argue that the Department should determine that a full review in this case was unnecessary and unwarranted.

Department's Position: We disagree. The Department's regulations do not require that the Department conduct an expedited review. Rather, the regulations provide that the Department *normally* will conduct an expedited review where it does not receive adequate response, where adequate response is described as responses from parties accounting for more than 50 percent of the volume of exports over the five years preceding initiation of the sunset review. The Department *must* conduct an expedited sunset review of a countervailing duty order only when the foreign government does not participate.

Unlike other countervailing duty investigations or reviews, where company-specific information is required in order to measure the amount of countervailable subsidy, the subsidy rate from the only program investigated over the life of this order has consistently been determined without the need for, or use of, company-specific information. Because adequacy determinations are made for the purpose of determining whether there is sufficient participation to warrant a full review, in a case such as this, where company-specific information provides no additional input into our determinations, we believe that requiring producer/exporter participation is not warranted. Therefore, in this sunset review, we continue to believe that the response of the EC forms an adequate basis for conducting a full review to determine whether revocation of the countervailing duty order on sugar from the EC will likely lead to continuation or recurrence of a countervailable subsidy and, if so, what the level of the net countervailable subsidy would be.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in the preliminary results of review. For the reasons set forth in the preliminary results of review, we continue to determine the country-wide net countervailable subsidy in terms of cents per pound. However, for this final, we find the net countervailable subsidy likely to prevail if the order were revoked is 23.69 cents per pound. Although qualifying as a countervailable export subsidy, Articles 3 and 6 of the Subsidies Agreement do not apply to the export restitution payments program under the EC's CAP.

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

Dated: August 27, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-23040 Filed 9-10-99; 8:45 am]

BILLING CODE 3510-DS-P

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Sugar from the European Union, Inv. No. 104-TAA-7 (Review)
Sugar from Belgium, France, and Germany, Inv. Nos. AA1921-198-200 (Review)
Sugar and Syrups from Canada, Inv. No. 731-TA-3 (Review)

On January 7, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products. *See* 19 U.S.C. § 1675(c)(5)(D); 63 *Fed. Reg.* 29372, 29374 (May 29, 1998).

***Sugar and Syrups from Canada*, Inv. No. 731-TA-3 (Review)**

With regard to *Sugars and Syrups from Canada*, Inv. No. 731-TA-3 (Review), the Commission determined that both domestic and respondent interested party group responses were adequate and voted to conduct a full review. Regarding domestic interested parties, the Commission received responses from two associations whose members account for most U.S. production of refined sugar. Regarding respondent interested parties, the Commission received a response from a Canadian producer that accounts for nearly all subject imports.

***Sugar from the European Union*, Inv. No. 104-TAA-7 (Review)**

With regard to *Sugar from the European Union*, Inv. No. 104-TAA-7 (Review), the Commission determined that the domestic interested party group response was adequate.[1] [2]

---

1 Commissioner Crawford concurs in finding that the domestic interested party group response was adequate. However, the Commission received no individual responses from growers or processors, who are producers of the domestic like product. Therefore, she finds that individual responses from growers and processors were inadequate.

2 Commissioner Askey dissenting. Although Commissioner Askey concurred in the decision to conduct a full review, she determined that the domestic interested party group response was inadequate because those who responded represent only the refining portion of the domestic industry. The domestic like product in the original case was sugar, both raw and refined. The Commission received no response from the representatives of beet or sugar cane growers or from the sugar cane processors who had been involved in the original case. Commissioner Askey recognizes that the United States Beet Sugar Association appears to include two growers' cooperatives, but she finds that the association responded in its capacity as a processing organization, not as a representative of growers, based on the like product information provided in the filing. *See Pressure Sensitive Plastic Tape from Italy*, Inv. No. AA1921-167 (Review) (3M Corporation's response considered a response from a member of the domestic
(continued...)

Although the two associations that responded to the notice do not include sugar growers and processors, the Commission found that the associations represent a sufficiently large portion of U.S. production of the domestic like product defined in the original investigation to be considered adequate. Because no respondent interested party responded to the notice of institution, the Commission determined that the respondent interested party group response was inadequate. The Commission further determined to conduct a full review, however, because conducting a full review would promote administrative efficiency in light of the Commission's decision to conduct a full review with respect to *Sugar and Syrups from Canada*, and because of the significant domestic like product and domestic industry issues presented by this review.[3] *See* 63 *Fed. Reg.* 30599, 30604 (June 5, 1998). Commissioner Crawford dissented from the Commission's decision to conduct a full review.

Commissioner Crawford voted to conduct expedited reviews in this investigation and in *Sugar from Belgium, France, and Germany.* Commissioner Crawford determined that circumstances warrant conducting an expedited review because (1) there is only one review in which adequate responses justifying a full review were received, while inadequate responses were received in all of the other four reviews, and (2) in the Belgium, France and Germany reviews no member of the domestic industry, *i.e.*, growers and processors, responded; in the European Union review integral members of the domestic industry, *i.e.*, growers and processors, did not respond; and no foreign interested parties responded in any of the four reviews. As a result, domestic growers, domestic processors and foreign firms, none of whom showed sufficient interest in these orders, would be investigated by the Commission if full reviews of these four orders are conducted. For these reasons, Commissioner Crawford determined that conducting expedited reviews of the four orders is warranted.

Sugar from Belgium, France, and Germany, Inv. Nos. AA1921-198-200 (Review)

With regard to *Sugar from Belgium, France, and Germany*, Inv. Nos. AA1921-198-200 (Review), the Commission determined that the domestic interested party group response was

---

2 (...continued)
industry because presented in that guise despite 3M's apparent status as a respondent interested party in the same case).

3 Commissioner Askey concurring in the result. Commissioner Askey notes that the Uruguay Round Agreements Act permits, but does not require, Commissioners to expedite reviews when interested party responses are inadequate. 19 U.S.C. § 1675(c)(3)(B). Despite her finding of inadequacy, Commissioner Askey voted to conduct a full investigation because she believes conducting simultaneous investigations in *Sugar from the European Union* and *Sugar and Syrups from Canada* will be administratively efficient due to the overlap in domestic like product in the two cases.

inadequate.[4] Although the Commission received a response to the notice of institution from associations representing domestic producers of refined cane sugar and beet sugar, it received no responses from domestic producers of the like product defined in the original investigations (sugar cane and raw cane sugar). Because no respondent interested party responded to the notice of institution, the Commission determined that the respondent interested party group response was inadequate. The Commission further determined to conduct full reviews, however, because conducting full reviews would promote administrative efficiency in light of the Commission's decision to conduct a full review with respect to *Sugar and Syrups from Canada*, and because of the significant domestic like product and domestic industry issues presented by these reviews. Commissioners Crawford and Askey dissented from the Commission's decision to conduct full reviews.

For the same reasons stated above, Commissioner Crawford determined that conducting expedited reviews of these three orders is warranted. Commissioner Askey determined that the differences in like product are such that conducting full reviews would not be administratively efficient.

A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site.

---

4 Chairman Bragg dissenting. In Chairman Bragg's view, the "significant domestic like product and domestic industry issues" (63 *Fed. Reg.* 30599, 30604) presented by these reviews prevent her from concluding that the domestic group response is adequate with regard to one product but inadequate with regard to another. Indeed, in a full review on the merits the Commission might determine that the two like products are actually one.

APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

B-1

CALENDAR OF PUBLIC HEARINGS

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	SUGAR FROM THE EUROPEAN UNION; SUGAR FROM BELGIUM, FRANCE AND GERMANY; AND SUGAR AND SYRUPS FROM CANADA
Invs. Nos.:	104-TAA-7 (Review); AA1921-198-200 (Review); and 731-TA-3 (Review)
Date and Time:	July 15, 1999 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, 500 E Street, SW, Washington, DC.

<u>OPENING REMARKS</u>

In Support of Continuation (Matthew J. Clark, Howrey & Simon)
In Support of Revocation (Shirley A. Coffield, Duane, Morris & Heckscher, LLP)

In Support of the Continuation of
the Finding/Order:

Howrey & Simon
Washington, D.C.
<u>on behalf of</u>

United States Beet Sugar Association ("USBSA")
United States Cane Sugar Refiners' Association ("USCSRA")

Robert Martinelly, Vice President, Marketing and Sales, Domino Sugar

Jennifer Nyberg, Director, Market and Policy Analysis, United Sugars Corporation

George Wedgworth, President, Sugar Cane Growers Cooperative of Florida

B-3

In Support of the Continuation of
the Finding/Order–Continued:

Jack Roney, Chief Economist, The American Sugar Alliance

Susan Henley Manning, Vice President, Capital Economics

James W. Johnson, President, U.S. Beet Sugar Association

Jim Dudley, Vice President, Agriculture, American Crystal Sugar Company

Kevin S. Price, Director of Government Affairs, American Crystal Sugar Company

Matthew J. Clark--OF COUNSEL

In Support of the Revocation of
the Finding/Order:

Duane, Morris & Heckscher, LLP
Washington, D.C.
on behalf of

Rogers Sugar, Limited
Canadian Sugar Institute ("CSI")

Dennis Hurl, Senior Vice President, Sales, Marketing and Logistics,
Rogers Sugar, Limited

Sandra Marsden, President, Canadian Sugar Institute

Shirley A. Coffield--OF COUNSEL

CLOSING REMARKS

In Support of Continuation (Matthew J. Clark, Howrey & Simon)
In Support of Revocation (Shirley A. Coffield, Duane, Morris & Heckscher, LLP)

B-4

APPENDIX C

SUMMARY DATA

C-1

Table C-1
U.S. sugar beet processors and cane sugar refineries: Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

(Quantity=short tons, value=1,000 dollars, unit values, and unit labor costs are per short ton; period changes=percent, except where noted)

Item	Reported data 1997	Reported data 1998	January-March 1998	January-March 1999	Period changes 1997-98	Period changes Jan.-Mar. 1998-99
U.S. consumption quantity:						
Amount (1)	9,578,000	9,684,000	2,233,000	2,208,000	1.1	-1.1
Producers' share (2)	73.0	80.5	83.8	89.6	7.6	5.8
Importers' share (2):						
Belgium	(3)	(3)	(3)	(3)	(4)	(4)
France	(3)	(3)	(3)	(3)	(5)	(4)
Germany	(3)	(3)	0	0	(5)	(5)
Other European Union	(3)	(3)	(3)	(3)	(5)	(5)
Total European Union	(3)	(3)	(3)	(3)	(4)	(4)
Canada	0.1	0.1	0.0	0.1	(4)	0.1
Other sources	33.2	22.9	17.0	22.7	-10.3	5.6
Total imports	33.3	23.0	17.1	22.8	-10.3	5.7
Netted to remove imports for re-exportation (6)	27.0	19.5	16.2	10.4	-7.5	-5.8
U.S. imports from--						
Belgium:						
Quantity	317	119	71	38	-62.5	-46.5
Value	620	167	78	72	-73.2	-8.1
Unit value	$1,955.63	$1,399.82	$1,096.13	$1,883.45	-28.4	71.8
Ending inventory quantity	0	0	0	0	(7)	(7)
France:						
Quantity	7	66	43	10	792.6	-77.9
Value	23	147	86	23	553.2	-73.0
Unit value	$3,059.95	$2,239.25	$1,999.24	$2,443.41	-26.8	22.2
Ending inventory quantity	0	0	0	0	(7)	(7)
Germany:						
Quantity	1	9	0	(8)	487.4	(7)
Value	9	13	0	3	32.9	(7)
Unit value	$6,422.18	$1,452.66	(7)	$7,282.50	-77.4	(7)
Ending inventory quantity	0	0	0	0	(7)	(7)
Other European Union:						
Quantity	11	74	3	39	565.7	1,336.3
Value	22	97	5	66	350.4	1,306.8
Unit value	$1,946.96	$1,317.34	$1,722.86	$1,687.43	-32.3	-2.1
Ending inventory quantity	0	0	0	0	(7)	(7)
Total European Union:						
Quantity	337	267	117	87	-20.7	-25.7
Value	674	424	169	164	-37.1	-2.5
Unit value	$1,999.04	$1,585.36	$1,442.81	$1,883.61	-20.7	30.6
Ending inventory quantity	0	0	0	0	(7)	(7)
Canada:						
Quantity	12,731	12,102	0	1,828	-4.9	(7)
Value	6,233	6,338	0	960	1.7	(7)
Unit value	$489.55	$523.75	(7)	$524.95	7.0	(7)
Ending inventory quantity	0	335	0	0	(7)	(7)

Table continued on next page.

Table C-1--Continued
U.S. sugar beet processors and cane sugar refineries: Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

(Quantity=short tons, value=1,000 dollars, unit values, and unit labor costs are per short ton; period changes=percent, except where noted)

Item	Reported data				Period changes	
			January-March			Jan.-Mar.
	1997	1998	1998	1999	1997-98	1998-99
U.S. imports from--						
Other sources:						
Quantity	3,178,277	2,216,500	380,687	500,792	-30.3	31.5
Value	1,037,945	790,300	144,077	128,616	-23.9	-10.7
Unit value	$326.57	$356.55	$378.47	$256.83	9.2	-32.1
Ending inventory quantity	87,317	79,898	93,137	80,301	-8.5	-13.8
All sources:						
Netted quantity (6)	2,590,222	1,884,353	362,348	229,148	-27.3	-36.8
Total quantity	3,191,345	2,228,869	380,804	502,707	-30.2	32.0
Total value	1,044,851	797,062	144,246	129,740	-23.7	-10.1
Unit value	$327.40	$357.61	$378.79	$258.08	9.2	-31.9
Ending inventory quantity	87,317	80,233	93,137	80,301	-8.1	-13.8
U.S. processors' and refiners' (9):						
Average capacity quantity	10,444,975	10,435,473	2,889,515	2,884,515	-0.1	-0.2
Production quantity	8,826,959	8,892,535	2,446,107	2,477,057	0.7	1.3
Capacity utilization (2) (10)	84.5	85.2	84.7	86.1	0.7	1.4
U.S. shipments:						
Net U.S. shipments (11)	6,987,778	7,799,647	1,870,652	1,978,852	11.6	5.8
Quantity from questionnaires	8,650,494	8,646,123	2,032,990	2,070,224	-0.1	1.8
Value from questionnaires	5,065,156	4,852,536	1,152,782	1,161,230	-4.2	0.7
Unit value	$585.53	$561.24	$567.04	$560.92	-4.1	-1.1
Export shipments:						
Quantity	187,945	170,223	41,000	58,000	-9.4	41.5
Value	58,203	52,603	12,448	16,979	-9.6	36.4
Unit value	$309.68	$309.02	$303.61	$292.74	-0.2	-3.6
Ending inventory quantity	1,537,785	1,510,144	1,852,641	1,856,098	-1.8	0.2
Inventories/total shipments (2)	17.4	17.1	22.3	21.8	-0.3	-0.5
Production workers	10,826	10,793	9,817	9,593	-0.3	-2.3
Hours worked (1,000s)	20,920	20,812	5,414	5,141	-0.5	-5.0
Wages paid ($1,000s)	339,159	347,070	88,643	84,570	2.3	-4.6
Hourly wages	$16.21	$16.68	$16.37	$16.45	2.9	0.5
Productivity (tons per hour)	0.41	0.42	0.45	0.49	1.2	7.4
Unit labor costs	$39.33	$39.98	$36.24	$33.97	1.6	-6.3

(1) Consumption data were obtained from USDA. Consumption totals differ from shipments data compiled from the Commission's questionnaires on page C-4 plus imports because refiners include raw cane imports refined in the United States in their shipments figures, which double-counts some of the imports.
(2) "Reported data" are in percent and "period changes" are in percentage points.
(3) Less than 0.05 percent.
(4) A decrease of less than 0.05 percentage points.
(5) An increase of less than 0.05 percentage points.
(6) Netted of imports that are re-exported or used in the production of polyhydric alcohols. See footnotes for table I-21.
(7) Not applicable.
(8) Less than 0.5 short tons.
(9) Processors' and refiners' data are compiled from Commission questionnaires, except where noted.
(10) [The Sugar Corp. of Puerto Rico provided capacity data but not production data for January-March 1999]. Capacity utilization is calculated using data of firms providing both numerator and denominator information.
(11) Estimated by Commission staff by subtracting netted Commerce imports data from USDA consumption data. This is lower than questionnaires data because of the inclusion in questionnaire responses of raw cane imports that are refined in the United States.

Source: Compiled from data submitted in response to Commission questionnaires and from official USDA and Commerce statistics.

Table C-2
U.S. sugar beet processors: Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

(Quantity=short tons, value=1,000 dollars, unit values and unit labor costs are per short ton; period changes=percent, except where noted)

Item	Reported data				Period changes	
			January-March			Jan.-Mar.
	1997	1998	1998	1999	1997-98	1998-99
Average capacity quantity	4,282,000	4,265,000	1,400,250	1,402,250	-0.4	0.1
Production quantity	3,705,241	4,088,441	1,316,318	1,374,336	10.3	4.4
Capacity utilization (1)	86.5	95.9	94.0	98.0	9.3	4.0
U.S. shipments:						
Quantity	3,804,996	4,110,512	954,841	1,041,527	8.0	9.1
Value	2,172,759	2,222,334	522,948	561,323	2.3	7.3
Unit value	$571.03	$540.65	$547.68	$538.94	-5.3	-1.6
Export shipments:						
Quantity	0	0	0	0	(2)	(2)
Value	0	0	0	0	(2)	(2)
Unit value	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	1,212,880	1,231,203	1,588,137	1,570,600	1.5	-1.1
Inventories/total shipments (1)	31.9	30.0	41.6	37.7	-1.9	-3.9
Production workers	7,471	7,589	6,521	6,469	1.6	-0.8
Hours worked (1,000s)	14,193	14,545	3,787	3,554	2.5	-6.2
Wages paid ($1,000s)	210,256	226,134	57,924	55,175	7.6	-4.7
Hourly wages	$14.81	$15.55	$15.29	$15.53	4.9	1.5
Productivity (tons per hour)	0.26	0.28	0.35	0.39	7.7	11.3
Unit labor costs	$56.75	$55.31	$44.00	$40.15	-2.5	-8.8

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

C-5

Table C-2A
U.S. sugar beet processors (cooperatives): Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

Table C-2B
U.S. sugar beet processors (non-cooperatives): Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

(Quantity=short tons, value=1,000 dollars, unit values, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data				Period changes	
			January-March			Jan.-Mar.
Item	1997	1998	1998	1999	1997-98	1998-99
Net sales:						
Quantity	2,187,000	2,468,000	581,000	579,000	12.8	-0.3
Value	1,383,141	1,467,144	363,959	355,128	6.1	-2.4
Unit value	$632.44	$594.47	$626.44	$613.35	-6.0	-2.1
Cost of goods sold (COGS)	1,127,048	1,220,152	302,244	305,260	8.3	1.0
Gross profit or (loss)	256,093	246,992	61,715	49,868	-3.6	-19.2
SG&A expenses	143,591	175,711	37,730	37,271	22.4	-1.2
Operating income or (loss)	112,502	71,281	23,985	12,597	-36.6	47.5
Capital expenditures	42,424	46,481	4,678	9,699	9.6	107.3
Unit COGS	$515.34	$494.39	$520.21	$527.22	-4.1	1.3
Unit SG&A expenses	$65.66	$71.20	$64.94	$64.37	8.4	-0.9
Unit operating income or (loss)	$51.44	$28.88	$41.28	$21.76	-43.9	47.3
COGS/sales (1)	81.5	83.2	83.0	86.0	1.7	2.9
Operating income or (loss)/ sales (1)	8.1	4.9	6.6	3.5	-3.3	-3.0

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-3
U.S. cane sugar refineries: Summary data concerning the U.S. market, 1997-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data				Period changes	
			January-March			Jan.-Mar.
	1997	1998	1998	1999	1997-98	1998-99
Average capacity quantity	6,162,975	6,170,473	1,489,265	1,482,265	0.1	-0.5
Production quantity	5,121,718	4,804,094	1,129,789	1,102,721	-6.2	-2.4
Capacity utilization (1)	83.1	77.9	75.9	74.4	-5.2	-1.5
U.S. shipments:						
Quantity	4,845,498	4,535,611	1,078,149	1,028,697	-6.4	-4.6
Value	2,892,397	2,630,202	629,834	599,907	-9.1	-4.8
Unit value	$596.92	$579.90	$584.18	$583.17	-2.9	-0.2
Export shipments:						
Quantity	187,945	170,223	41,000	58,000	-9.4	41.5
Value	58,203	52,603	12,448	16,979	-9.6	36.4
Unit value	$309.68	$309.02	$303.61	$292.74	-0.2	-3.6
Ending inventory quantity	324,905	278,941	264,504	285,498	-14.1	7.9
Inventories/total shipments (1)	6.5	5.9	5.9	6.6	-0.5	0.7
Production workers	3,355	3,204	3,296	3,124	-4.5	-5.2
Hours worked (1,000s)	6,727	6,267	1,627	1,587	-6.8	-2.5
Wages paid ($1,000s)	128,903	120,936	30,719	29,395	-6.2	-4.3
Hourly wages	$19.16	$19.30	$18.88	$18.52	0.7	-1.9
Productivity (tons per hour)	0.73	0.73	0.69	0.71	0.2	2.4
Unit labor costs	$26.21	$26.33	$27.19	$26.26	0.5	-3.4
Net sales:						
Quantity	5,487,392	5,159,096	1,322,064	1,293,565	-6.0	-2.2
Value	3,187,169	2,792,531	743,558	683,854	-12.4	-8.0
Unit value	$580.82	$541.28	$562.42	$528.66	-6.8	-6.0
Cost of goods sold (COGS)	2,826,477	2,584,572	682,150	622,660	-8.6	-8.7
Gross profit or (loss)	360,692	207,959	61,408	61,194	-42.3	-0.3
SG&A expenses	212,486	174,973	45,675	43,043	-17.7	-5.8
Operating income or (loss)	148,206	32,986	15,733	18,151	-77.7	15.4
Capital expenditures	46,309	49,779	10,523	4,862	7.5	-53.8
Unit COGS	$515.09	$500.97	$515.97	$481.35	-2.7	-6.7
Unit SG&A expenses	$38.72	$33.92	$34.55	$33.27	-12.4	-3.7
Unit operating income or (loss)	$27.01	$6.39	$11.90	$14.03	-76.3	17.9
COGS/sales (1)	88.7	92.6	91.7	91.1	3.9	-0.7
Operating income or (loss)/sales (1)	4.7	1.2	2.1	2.7	-3.5	0.5

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-4A
U.S. sugar cane mills (cooperatives): Summary data concerning the U.S. market, 1997-98

(Quantity=short tons, value=1,000 dollars, unit values, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data		Period changes
	1997	1998	1997-98
Net sales:			
Quantity	1,001,897	1,114,644	11.3
Value	433,947	481,962	11.1
Unit value	$433.13	$432.39	-0.2
Cost of goods sold (COGS)	390,027	434,085	11.3
Gross profit or (loss)	43,920	47,877	9.0
SG&A expenses	33,895	37,288	10.0
Operating income or (loss)	10,025	10,588	5.6
Capital expenditures	18,115	10,616	-41.4
Unit COGS	$388.76	$389.43	0.2
Unit SG&A expenses	$33.13	$32.86	-0.8
Unit operating income or (loss)	$11.24	$10.11	-10.1
COGS/sales (1)	89.9	90.1	0.2
Operating income or (loss)/ sales (1)	2.3	2.2	-0.1

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-4B
U.S. sugar cane mills (non-cooperatives): Summary data concerning the U.S. market, 1997-98

*   *   *   *   *   *   *

Table C-5
U.S. sugar beet growers: Summary data concerning the U.S. market, 1997-98

(Quantity=short tons, value=1,000 dollars, unit values, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data 1997	Reported data 1998	Period changes 1997-98
Quantity of sugar beets sold	817,361	877,306	7.3
Farm income:			
Value of sugar beet sales	46,527	43,782	-5.9
Cooperative distributions	613	392	-36.0
Other related income	200	207	3.6
Total farm income	47,340	44,381	-6.3
Total farm expenses	42,806	46,067	7.6
Net operating income or (loss)	4,533	(1,687)	(2)
Depreciation/amortization	2,087	2,189	4.9
Cash flow from operations	6,620	502	-92.4
Unit sales value	$38.35	$34.21	-10.8
Unit net operating income or (loss)	$3.72	($1.85)	(2)
Total farm expenses/income (1)	90.4	103.8	13.4
Net operating income or (loss)/ farm income (1)	9.6	-3.8	-13.4

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Undefined.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-6A
U.S. sugar cane growers (Florida): Summary data concerning the U.S. market, 1997-98

(Quantity=short tons, value=1,000 dollars, unit values, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data 1997	Reported data 1998	Period changes 1997-98
Quantity of sugar cane sold	2,147,714	2,254,447	5.0
Farm income:			
Value of sugar cane sales	53,654	56,996	6.2
Cooperative distributions	9,810	8,651	-11.8
Other related income	1,123	1,037	-7.7
Total farm income	64,586	66,684	3.2
Total farm expenses	46,679	44,742	-4.1
Net operating income or (loss)	17,907	21,942	22.5
Depreciation/amortization	3,293	3,651	10.9
Cash flow from operations	21,200	25,592	20.7
Unit sales value	$29.37	$28.92	-1.5
Unit net operating income or (loss)	$7.97	$9.59	20.3
Total farm expenses/income (1)	72.3	67.1	-5.2
Net operating income or (loss)/ farm income (1)	27.7	32.9	5.2

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-6B
U.S. sugar cane growers (Louisiana and Texas): Summary data concerning the U.S. market, 1997-98

(Quantity=short tons, value=1,000 dollars, unit values, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data 1997	Reported data 1998	Period changes 1997-98
Quantity of sugar cane sold	1,055,114	866,468	-17.9
Farm income:			
Value of sugar cane sales	26,348	26,682	1.3
Cooperative distributions	26	50	95.4
Other related income	822	826	0.6
Total farm income	27,196	27,558	1.3
Total farm expenses	24,345	24,391	0.2
Net operating income or (loss)	2,851	3,168	11.1
Depreciation/amortization	2,382	2,518	5.7
Cash flow from operations	5,232	5,686	8.7
Unit sales value	$23.30	$25.30	8.6
Unit net operating income or (loss)	$2.59	$3.57	38.2
Total farm expenses/income (1)	89.5	88.5	-1.0
Net operating income or (loss)/ farm income (1)	10.5	11.5	1.0

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-7A
Sugar from the European Union: Estimated U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1997-98 and January-March 1998 and 1999

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999	% change 1997-98	% change Jan.-Mar. 1998-99
	Quantity *(short tons, raw value)*					
U.S. shipments of domestic product[1]	6,987,778	7,799,647	1,870,652	1,978,852	11.6	5.8
U.S. imports from--						
EU countries	337	267	117	87	-20.7	-25.4
All other sources	3,191,008	2,228,602	380,687	502,620	-30.2	32.0
Total imports	3,191,345	2,228,869	380,804	502,707	-30.2	32.0
Netted to remove imports for re-exportation[4]	2,590,222	1,884,353	362,348	229,148	-27.3	-36.8
Apparent U.S. consumption	9,578,000	9,684,000	2,233,000	2,208,000	1.1	-1.1
	Share of apparent U.S. consumption *(percent, except where noted)*					
U.S. shipments of domestic product[2]	73.0	80.5	83.8	89.6	7.5	5.8
U.S. imports from[2]--						
EU countries	(3)	(3)	(3)	(3)	(5)	(5)
All other sources	33.3	23.0	17.0	22.8	-10.3	5.7
Total imports	33.3	23.0	17.1	22.8	-10.3	5.7
Netted to remove imports for re-exportation	27.0	19.5	16.2	10.4	-7.5	-5.8

[1] U.S. shipments of domestic product were calculated by subtracting netted imports (Commerce data) from total consumption (USDA data).
[2] Period changes are in percentage points.
[3] Less than 0.05 percent.
[4] Although raw sugar imports which are refined and re-exported and certain sugar used in the production of polyhydric alcohols are included in the scopes of *Sugar from the European Union* and *Sugar from Belgium, France, and Germany* (and are therefore included in total imports), apparent U.S. consumption from USDA does not include re-exported sugar or sugar used for polyhydric alcohol in the total. In order to calculate U.S. shipments of domestic product (see footnote 1 above), total imports must be netted to remove imports for re-exportation and sugar used to produce polyhydric alcohol, as defined in the description for HTS number 1701.11.2000. All imports entered under 1701.11.2000 during 1997, 1998, and the interim periods were from non-subject sources.
[5] A decrease of less than 0.05 percentage points.

Note: Because of rounding, figures may not add to totals shown.

Source: Compiled from official Commerce import statistics and *Sugar and Sweetener*, USDA: Dec. 1998 and May 1999.

C-11

Table C-7B
Sugar from Belgium, France, and Germany: Estimated production of raw sugar in the southeastern United States, imports of sugar into the southeastern United States, by sources, and apparent southeastern regional sugar consumption, 1997-98 and January-March 1998 and 1999

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999	% change 1997-98	% change Jan.-Mar. 1998-99
	Quantity *(short tons, raw value)*					
U.S. production[1]	1,703,000	1,967,000	1,062,000	1,202,000	15.5	13.2
U.S. imports from--						
Belgium	0	0	0	0	(2)	(2)
France	0	0	0	0	(2)	(2)
Germany	0	0	0	0	(2)	(2)
Subtotal	0	0	0	0	(2)	(2)
All other sources	348,674	163,010	26,930	68,974	-53.2	156.1
Total imports	348,674	163,010	26,930	68,974	-53.2	156.1
Apparent U.S. consumption	2,051,674	2,130,010	1,088,930	1,270,974	3.8	16.7
	Share of apparent U.S. consumption *(percent, except where noted)*					
U.S. production[3]	83.0	92.3	97.5	94.6	9.3	-3.0
U.S. imports from[3]--						
Belgium	0	0	0	0	0	0
France	0	0	0	0	0	0
Germany	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
All other sources	17.0	7.7	2.5	5.4	-9.3	3.0
Total imports	17.0	7.7	2.5	5.4	-9.3	3.0

[1] USDA production data for Florida were used for the regional analysis because Commission questionnaires did not request data by plant and did not request shipment data by region. In addition, USDA production data were used rather than USDA shipments data because shipments are not presented by region. USDA production data will not account for shipments into or out of the southeastern region, nor will they account for exports (which are minimal) or inventory changes over the period. Raw cane sugar is often shipped out of Florida to be further refined; one example is the December 1998 purchase of the Refined Sugars refinery in Yonkers, NY, by two Florida sugar cane millers.
[2] Not applicable.
[3] Period changes are in percentage points.

Note: Because of rounding, figures may not add to totals shown.

Source: Compiled from official Commerce import statistics and *Sugar and Sweetener*, USDA: Dec. 1998 and May 1999.

Table C-7C
Sugar and syrups from Canada: Estimated production in the northeastern United States, imports into the northeastern United States, by sources, and apparent northeastern regional consumption, 1997-98 and January-March 1998 and 1999

Item	1997	1998	Jan.-Mar. 1998	Jan.-Mar. 1999	% change 1997-98	% change Jan.-Mar. 1998-99
	Quantity *(short tons, raw value)*					
U.S. production[1]	1,202,979	1,214,104	329,635	340,622	0.9	3.3
U.S. imports from--						
Canada	8,549	882	0	0	-89.7	(2)
All other sources	3,094	6,372	234	408	105.9	74.4
Total imports	11,643	7,254	234	408	-37.7	74.4
Apparent U.S. consumption	1,214,622	1,221,358	329,869	341,030	0.6	3.4
	Share of apparent U.S. consumption *(percent, except where noted)*					
U.S. production[3]	99.0	99.4	99.9	99.9	0.4	(4)
U.S. imports from[3]--						
Canada	0.7	0.1	0	0	-0.6	0
All other sources	0.3	0.5	0.1	0.1	0.3	(5)
Total imports	1.0	0.6	0.1	0.1	-0.4	(5)

[1] Production data were used for the regional analysis because Commission questionnaires did not request shipment data by production facility or by region. However, Commission staff were able to obtain regional production from the relevant firms. Production data will not account for shipments into or out of the northeastern region, nor will they account for exports (which are minimal) or inventory changes over the period.
[2] Not applicable.
[3] Period changes are in percentage points.
[4] A decrease of less than 0.05 percentage points.
[5] An increase of less than 0.05 percentage points.

Note: Because of rounding, figures may not add to totals shown.

Source: Compiled from Commission questionnaires and official Commerce import statistics.

C-13

APPENDIX D

U.S. PRODUCERS', U.S. IMPORTERS', U.S. PURCHASERS', AND FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

D-1

U.S. PROCESSORS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Anticipated Operational/Organizational Changes If Orders Were To Be Revoked (Question II-4)

The Commission requested U.S. processors and refiners to describe any anticipated changes in the character of their operations or organization relating to the production (processing or refining) of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

The Commission requested U.S. sugar cane millers and cooperatives (not already listed above) to describe any anticipated changes in the character of their operations or organization relating to the production of raw sugar, sugar cane or beets in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

Significance of Existing Orders In Terms of Trade and Related Data (Question II-14A-C)

The Commission requested U.S. processors and refiners to describe the significance of the existing countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada in terms of their effect on their production capacity, production, U.S. shipments, inventories, purchases, and employment. Their responses are as follows:

* * * * * * *

D-3

Anticipated Changes in Trade and Related Data If Orders Were To Be Revoked (Question II-15)

The Commission requested U.S. processors and refiners to describe any anticipated changes in their production capacity, production, U.S. shipments, inventories, purchases, or employment relating to the production (processing or refining) of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

Significance of Existing Orders In Terms of Financial Data (Question III-8 for Processors/Refiners; Question III-11 for Millers/Cooperatives)

The Commission requested U.S. processors and refiners to describe the significance of the existing countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada in terms of their effect on their firms' revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. Their responses are as follows:

* * * * * * *

The Commission requested U.S. millers and cooperatives (not already listed above) to describe the significance of the existing countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada in terms of their effect on their firms' revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. Their responses are as follows:

* * * * * * *

D-4

Anticipated Changes in Financial Data If Order Were To Be Revoked (Question III-9 for Processors/Refiners; Question III-12 for Millers/Cooperatives)

The Commission requested U.S. processors and refiners to describe any anticipated changes in their revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production (processing or refining) of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

The Commission requested U.S. millers and cooperatives (not already listed above) to describe any anticipated changes in their revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Anticipated Operational/Organizational Changes If Orders Were To Be Revoked (Question II-4)

The Commission requested importers to describe any anticipated changes in the character of their operations or organization relating to the importation of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

D-5

Significance of Existing Orders In Terms of Trade and Related Data (Question II-8A-C)

The Commission requested importers to describe the significance of the existing countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada in terms of their effect on their imports, U.S. shipments of imports, and inventories. Their responses are as follows:

* * * * * * *

Anticipated Changes in Trade and Related Data If Orders Were To Be Revoked (Question II-9)

The Commission requested importers to describe any anticipated changes in their imports, U.S. shipments of imports, or inventories of sugar and/or syrups in the future if the countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada were to be revoked. Their responses are as follows:

* * * * * * *

U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION

Effects of Revocation on Future Activities of the Firms and the U.S. Market as a Whole (Question III-12)

The Commission asked purchasers to comment on the likely effects of revocation of the countervailing and/or antidumping duty orders on (1) future activities of their firms and (2) the U.S. market as a whole. Their responses are as follows:

* * * * * * *

D-6

U.S. FOREIGN EXPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Significance of Existing Orders In Terms of Trade and Related Data (Question II-15)

The Commission requested foreign producers to describe the significance of the existing countervailing duty order on sugar from the European Union and/or the antidumping duty orders on sugar from Belgium, France, and Germany and/or the antidumping duty order on sugar and syrups from Canada in terms of their effect on their firms' production capacity, production, home market shipments, exports to the United States and other markets, and inventories. Their responses are as follows:

* * * * * * *

D-7

APPENDIX E

SUGAR AND SYRUPS FROM CANADA: ANTIDUMPING MARGINS FOR CANADIAN PRODUCERS/EXPORTERS IN THE ORIGINAL INVESTIGATION AND SUBSEQUENT ADMINISTRATIVE REVIEWS

E-1

Table E-1
Sugar and syrups from Canada: Results of Commerce's final AD investigation concerning imports of sugar and syrups and subsequent administrative reviews

(Percent margin, except where indicated)

Firm	Original AD order	Nov. 1979-Mar. 1980	Apr. 1980-Mar. 1981	Apr. 1981-Mar. 1982	Apr. 1982-Mar. 1983
Lantic Sugar, Ltd. (formerly Atlantic Sugar, Ltd.)	$0.0223/lb.	$0.0223/lb.	$0.0223/lb.	$0.0223/lb.	1.26%
Lentzco, Ltd.			17.33%	17.33%	10.18%
Redpath Sugars, Ltd.	$0.0237/lb.	$.0345/lb.	17.33%	0.3%	0.01%
St. Lawrence Sugar, Ltd. (merged with Lantic Sugar, Ltd.)	$0.0237/lb.	$.0345/lb.	17.33%	5.65%	0%
Westcane Sugar, Ltd. (merged with Lantic Sugar, Ltd.)					0%
F.W. Jones and Son		$.00308/lb.	0.367%	0.004%	
Scott Paper Co., Ltd.			17.33%	17.33%	
Rogers Sugar (formerly B.C. Sugar)	$0.010105/lb.	$0.010105/lb.	$0.010105/lb.	0%	

Continued.

E-3

Table E-1--Continued
Sugar and syrups from Canada: Results of Commerce's final AD investigation concerning imports of sugar and syrups and subsequent administrative reviews

(Percent margin, except where indicated)

Firm	Apr. 1983-Mar. 1984	Apr. 1984-Mar. 1985	Apr. 1985-Mar. 1986	Apr. 1986-Mar. 1987
Lantic Sugar, Ltd. (formerly Atlantic Sugar, Ltd.)[1]	0%	0%	0%	0%
Lentzco, Ltd.	10.18%	10.18%		
Redpath Sugars, Ltd.[2]	0%			
St. Lawrence Sugar, Ltd. (merged with Lantic Sugar, Ltd.)[3]	0%			
Westcane Sugar, Ltd. (merged with Lantic Sugar, Ltd.)[4]	0%			
F.W. Jones and Son				
Scott Paper Co., Ltd.				
Rogers Sugar (formerly B.C. Sugar)				

[1] Lantic Sugars, Ltd. was reviewed by Commerce over the period Apr. 1, 1986 through Feb. 10, 1987, rather than the one year period listed for 1986/87. Subsequent to this review, the AD order on sugar and syrups from Canada was revoked for Lantic on all entries liquidated on or after Feb. 10, 1987.
[2] Redpath Sugars, Ltd. was reviewed by Commerce over the period Apr. 1, 1983 through July 20, 1984, rather than the one year listed for 1983/84. Subsequent to this review, the AD order on sugar and syrups from Canada was revoked for Redpath on all entries liquidated on or after July 20, 1984.
[3] St. Lawrence Sugar, Ltd. was reviewed by Commerce over the period Apr. 1, 1983 through Oct. 27, 1984, rather than the one year period listed above for 1983/84.
[4] Westcane Sugar, Ltd. was reviewed by Commerce over the period Apr. 1, 1983 through Dec. 31, 1983, rather than the one year period listed for 1983/84.

Note: No other reviews for *Sugar and Syrups from Canada* were conducted.

Source: 45 FR 24126 (April 9, 1980), 46 FR 27985 (May 22, 1981), 47 FR 25393 (June 11, 1982), 48 FR 49327 (Oct. 25, 1983), 52 FR 9322 (Mar. 24, 1987), 52 FR 21340 (June 5, 1987), and 52 FR 43782 (Nov. 16, 1987).

E-4

APPENDIX F

USDA DATA ON
U.S. TARIFF RATE QUOTAS
AND IMPORTS OF SUGAR

F-1

Table 21--U.S. sugar imports under tariff-rate quota (TRQ), by country, fiscal years 1996-99

Country 1/	10/95-9/96 TRQ allocation	10/95-9/96 Early 1995/96 entries 2/	10/95-9/96 Actual imports 3/	10/96-9/97 TRQ allocation 4/	10/96-9/97 Actual imports	10/96-9/97 Estimated balance
	Metric tons, raw value					
Raw cane sugar						
Argentina	95,867	3,062	95,867	87,236	87,226	-10
Australia	185,044	0	185,044	168,386	168,756	370
Barbados	12,311	0	0	11,359	0	-11,359
Belize	24,523	0	24,524	22,316	22,420	104
Bolivia	17,835	0	17,660	16,230	16,339	109
Brazil	323,271	0	323,268	294,169	294,207	38
Colombia	53,506	0	53,126	48,690	53,177	4,487
Congo	7,258	0	5,643	7,258	7,312	54
Costa Rica	33,411	0	33,441	30,431	30,519	88
Cote D Ivoire	7,258	80	80	7,258	7,289	31
Dominican Republic	350,940	0	329,516	357,060	355,454	-1,606
Ecuador	24,523	21	24,523	22,316	22,353	37
El Salvador	57,966	342	57,966	52,748	52,748	0
Fiji	20,065	8,519	20,065	18,259	18,355	96
Gabon	7,258	0	0	7,258	0	-7,258
Guatemala	107,014	34	107,014	97,380	97,884	504
Guyana	26,754	4,422	26,754	24,345	24,558	213
Haiti	7,258	0	0	7,258	0	-7,258
Honduras	22,294	0	20,173	20,288	20,339	51
India	15,951	0	14,311	16,230	16,076	-154
Jamaica	24,523	648	24,523	22,316	22,068	-248
Madagascar	7,258	1	7,258	7,258	7,307	49
Malawi	22,294	0	17,970	20,288	10,847	-9,441
Mauritius	26,754	0	23,695	24,345	24,488	143
Mexico 5/	7,258	0	6,973	25,000	23,892	-1,108
Mozambique	28,983	0	25,686	26,374	26,689	315
Nicaragua	46,819	0	45,901	42,604	42,417	-187
Panama	57,825	0	48,158	58,834	55,049	-3,785
Papua New Guinea	7,258	0	0	7,258	7,362	104
Paraguay	7,258	0	7,258	7,258	5,934	-1,324
Peru	91,407	6,738	91,407	83,179	83,310	131
Philippines	237,422	0	237,110	273,881	254,431	-19,450
South Africa	51,278	19,346	51,278	46,661	46,385	-276
St. Kitts and Nevis	7,258	0	4,096	7,258	7,219	-39
Swaziland	35,673	11,653	35,673	32,460	32,720	260
Taiwan	26,754	70	26,754	24,345	24,374	29
Thailand	31,213	0	31,212	28,403	28,481	78
Trinidad-Tobago	15,606	0	15,606	14,201	14,164	-37
Uruguay	7,258	7,493	7,023	7,258	6,997	-261
Zimbabwe	26,754	12,636	26,754	24,345	24,420	75
Rounding						
Subtotal raw cane sugar	2,167,160	75,065	2,073,310	2,100,001	2,043,566	---
TRQ shortfall	---	---	93,850	---	56,435	---
Refined sugars						
Mexico (NAFTA) 5/	---	---	---	25,000	23,892	---
Mexico (Sept. 1997, 1998 and 1999 allocation)	---	---	---		---	---
Canada (Sept. 1997, 1998, and 1999 allocation)	---	---	---	---	---	---
Specialty sugar 6/	1,656	---	129	1,656	1,656	---
Other refined sugars 6/	20,344	---	20,344	20,344	20,344	---
Subtotal refined sugars	22,000	---	20,473	47,000	22,000	---
Potential TRQ not yet allocated	---	---	---	---	---	---
Grand total 7/	2,189,160	75,064	2,093,783	2,147,001	2,065,566	-56,435
Grand total (short tons)	2,413,138	82,744	2,308,003	2,366,666	2,276,899	-59,036

continued--

F-3

Table 21--U.S. sugar imports under tariff-rate quota (TRQ), by country, fiscal years 1996-99--continued

Country 1/	10/97-9/98 TRQ allocation 4/	10/97-9/98 Actual imports	10/97-9/98 Estimated balance	10/98-9/99 TRQ allocation	10/98-9/99 Entered thru 36290
	Metric tons, raw value				
Raw cane sugar					
Argentina	65,563	65,517	-46	46,581	24,044
Australia	126,552	127,062	510	89,912	63,560
Barbados	7,830	0	-7,830	7,583	0
Belize	16,772	16,796	24	11,916	9,524
Bolivia	12,198	11,413	-785	8,666	8,555
Brazil	221,084	220,358	-726	157,076	96,632
Colombia	36,593	33,751	-2,842	25,999	10,857
Congo	7,258	7,296	38	7,258	138
Costa Rica	22,871	22,835	-36	16,249	16,249
Cote D Ivoire	7,258	31	-7,227	7,258	0
Dominican Republic	268,350	267,130	-1,220	190,657	88,497
Ecuador	16,772	16,772	0	11,916	0
El Salvador	39,643	39,925	282	28,165	14,316
Fiji	13,722	10,795	-2,927	9,750	0
Gabon	7,258	0	-7,258	7,258	0
Guatemala	73,186	72,907	-279	51,997	30,710
Guyana	18,297	18,329	32	12,999	32
Haiti	7,258	0	-7,258	7,258	0
Honduras	15,247	15,317	70	10,833	70
India	12,198	12,554	356	8,666	8,666
Jamaica	16,772	16,616	-156	11,916	0
Madagascar	7,258	7,312	54	7,258	63
Malawi	15,247	11,968	-3,279	10,833	0
Mauritius	18,297	18,526	229	12,999	3,160
Mexico 5/	25,000	25,000	0	25,000	1,881
Mozambique	19,821	20,083	262	14,083	14,083
Nicaragua	32,019	32,137	118	22,749	9,842
Panama	44,217	44,138	-79	31,415	20,908
Papua New Guinea	7,258	104	-7,154	7,258	7,258
Paraguay	7,258	5,023	-2,235	7,258	1,272
Peru	62,513	62,578	65	44,415	22,466
Philippines	205,837	202,090	-3,747	146,243	27,634
South Africa	35,069	35,173	104	24,915	12,856
St. Kitts and Nevis	7,258	7,237	-21	7,258	0
Swaziland	24,395	24,480	85	17,332	17,332
Taiwan	18,297	18,300	3	12,999	12,999
Thailand	21,346	21,313	-33	15,166	0
Trinidad-Tobago	10,673	10,946	273	7,583	7,583
Uruguay	7,258	7,404	146	7,258	7,258
Zimbabwe	18,297	18,244	-53	12,999	12,999
Rounding				3	
Subtotal raw cane sugar	1,600,000	1,547,460	---	1,164,937	551,444
TRQ shortfall	---	52,540	---	---	65,000
Refined sugars					
Mexico (NAFTA) 5/	25,000	25,000	---	25,000	1,881
Mexico (Sept. 1997, 1998, and 1999 allocation)	2,954	2,954	---	2,954	0
Canada (Sept. 1997, 1998, and 1999 allocation)	10,300	9,521	---	10,300	9,550
Specialty sugar 6/	4,656	4,367	---	4,656	4,656
Other refined sugars 6/	7,090	7,090	---	7,090	7,090
Subtotal refined sugars	50,000	48,932	---	50,000	23,177
Potential TRQ not yet allocated	---	---		---	---
Grand total 7/	1,625,000	1,571,392	-53,215	1,189,937	549,621
Grand total (short tons)	1,791,257	1,732,165	-58,660	1,311,682	605,854

---=Not applicable. Note: Imports are reported on an actual weight basis, adjusted upward by Customs by a factor of 1.035. When final polarization results are received or when adjustments are made to raw value on final vessels, cumulative import data are adjusted accordingly. To convert from metric tons to short tons, multiply by 1.10231225. Numbers may not add due to rounding. 1/ A country's excess of cumulative and adjustments over its TRQ allocation are carried over and applied against the country's allocation for the next TRQ period. 2/ Entered during August and September 1995, but counted against the 10/95-9/96 TRQ. 3/ October 1, 1995, through September 30, 1996, plus early entries. 4/ As adjusted in March and May 1997. 5/ Mexico may ship either raw or refined. 6/ Other refined sugars are on first-come-first-served basis beginning fiscal 1996. Beginning in fiscal 1997, the specialty sugars is also on first-come-first-served basis. 7/ In 1996/97, 1997/98, and 1998/99, total is 25,000 metric tons less than the sum of individual components so as to not double-count Mexico.

Source: Foreign Agricultural Service, USDA.

F-4

APPENDIX G

U.S. NOTIFICATIONS TO THE WTO ON IMPORTS OF SUGAR SUBJECT TO SAFEGUARDS, 1995-98

G-1

WORLD TRADE ORGANIZATION

G/AG/N/USA/4
28 March 1996

(96-1127)

Committee on Agriculture

Original: English

NOTIFICATION

The following notification concerning the use of special safeguard provisions (Table MA:5) was received from the delegation of the **United States** on 25 March 1996.

UNITED STATES

United States price-based safeguards are invoked automatically on a shipment-by-shipment basis. Importers who enter goods in an over-quota tariff line are required to declare which pre-established price range is applicable to their product. If there is a safeguard duty associated with that price range, the additional charge is assessed. Entries where the safeguard duties were assessed during the reporting period are summarized in this notification. Information on affected quantities and countries, while not required by the format, is provided for illustrative purposes. Multiple transactions involving the same country and product have been aggregated for purposes of this notification.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL # of pages ►

To JOHN FREY	From RICHARD BOTTOCY
Dept./Agency ITC	Phone #
Fax #	Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

Table MA:5

MARKET ACCESS: United States of America

REPORTING PERIOD: Calendar year 1995

Annual Summary of Special Safeguard Actions Taken

Tariff item No.	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period
1	2	3	4
0402295000	Sweetened milk powder, over-quota	None	42 kg. from Ghana
0405004000	Butter, over-quota	None	2,200 kg. from Egypt
0406101800	Fresh blue cheese, over-quota	None	18 kg. from Italy
0406104800	Fresh Edam/Gouda cheese, over-quota	None	70 kg. from Belgium
040615800	Fresh Italian type cheese, over-quota	None	108 kg. from Italy
04069084000	Processed cheese, NSPF, over-quota	None	227 kg. from Nicaragua
0406309100	Other mixtures of American-type cheese, over-quota	None	15 kg. from Italy
0406908400	Other mixtures of American-type cheese, over-quota	None	8 kg. from Ecuador
0406909200	Other mixtures of Gruyere, over-quota	None	14 kg. from Czech Republic
0406909700	Other mixtures of cheese, NSPF, over-quota	None	90 kg. from El Salvador
0406909700	Other mixtures of cheese, NSPF, over-quota	None	15 kg. from New Zealand
0406909700	Other mixtures of cheese, NSPF, over-quota	None	1,900 kg. from Finland
0406909700	Other mixtures of cheese, NSPF, over-quota	None	408 kg. from France
1202208040	Other shelled peanuts, over-quota	None	654 kg. from Argentina*
17019113000	Coloured sugar, over-quota	None	160 kg. from Australia
1701995000	Refined sugar, over-quota	None	10,823 kg. from China
1806101500	Cocoa powder, over 10% sugar, over-quota	None	203 kg. from El Salvador
1806101500	Cocoa powder, over 10% sugar, over-quota	None	272 kg. from Jamaica
1806102800	Bulk cocoa powder over 65% sugar, over quota	None	495 kg. from Ecuador
1806905900	Other cocoa preps. over 10% sugar, over-quota	None	29 kg. from Canada
1901206000	Doughs over 65% sugar, under 25% milkfat, over-quota	None	541 kg. from Nigeria
2101105800	Coffee preparations over 10% sugar, over-quota	None	2 kg. from Canada
2106907200	Other syrups over 10% milk, over-quota	None	175 kg. from Switzerland
2202902800	Milk-based drinks, over-quota	None	320 kg. from South Korea

*Product entered before Uruguay Round tariff-rate quota opened in April 1995.

WORLD TRADE ORGANIZATION

G/AG/N/USA/24
10 March 1999

(99-0954)

Committee on Agriculture

Original: English

NOTIFICATION

The following notification concerning the use of special safeguard provisions **(Table MA:5)** for calendar years **1996** and **1997** was received from the delegation of the **United States** on 4 March 1999.

United States price-based safeguards are invoked automatically on a shipment-by-shipment basis. Importers who enter goods in an over-quota tariff line are required to declare which pre-established price range is applicable to their product. If there is a safeguard duty associated with that price range, the additional charge is assessed. Entries where the safeguard duties were assessed during the reporting period are summarized in this notification. Information on affected quantities, while not required by the format, is provided for illustrative purposes. Multiple transactions involving the same product have been aggregated for the purposes of this notification.

Table MA:5

MARKET ACCESS: United States of America

REPORTING PERIOD: Calendar year 1996

Annual summary of special safeguard actions taken

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period Affected quantities (kg.)
1	2	3	4
0402105000	Milk powder under 1.5% fat, over-quota	None	10,200
0402215000	Dried milk 3-35% fat over-quota	None	795
0402295000	Sweetened milk powder, over-quota	None	28
0402999000	Sweetened evaporated milk, over-quota	None	708
0403909500	Dried fermented milk, over-quota	None	25
0404109000	Dried whey, over-quota	None	50
0406102800	Fresh Cheddar cheese, over-quota	None	148
0406103800	Fresh American-type cheese, over-quota	None	14
0406104800	Fresh Edam/Gouda cheese, over-quota	None	19
0406106800	Fresh Gruyere processed cheese, over-quota	None	12
0406203300	Grated or powdered Cheddar cheese, over-quota	None	310
0406205300	Grated or powdered Italian-type cheese, over-quota	None	293
0406207900	Powdered mixtures of Italian-type cheese, over-quota	None	7
0406209100	Powdered cheese NSPF, over-quota	None	134
0406307100	Processed mixtures of American-type cheese, over-quota	None	23
0406307900	Processed mixtures of Italian-type cheese, over-quota	None	650
0406309100	Processed cheese, NSPF, over-quota	None	69
0406407000	Other blue cheese, over-quota	None	62
0406901200	Other Cheddar cheese, over-quota	None	128
0406904200	Other Italian-type cheese, over-quota	None	30,395
0406906800	Other mixtures of Italian-type cheese, over-quota	None	139
0406908400	Other mixtures of American-type cheese, over-quota	None	777,647
0406909200	Other mixtures of Gruyere, over-quota	None	13
0406909700	Other mixtures of cheese, NSPF, over-quota	None	4,400
1701115000	Raw cane sugar, over-quota	None	267,798

1701913000	Coloured sugar, over-quota	None	90,309
1701914800	Flavoured sugar over 65% sugar, over-quota	None	414
1701995000	Refined sugar, over-quota	None	2,776,290
1702902000	Sugar syrup, over-quota	None	16,517
1704905800	Dairy confectionery, over-quota	None	3,237
1704906800	Sugar confectionery over 65% sugar, over-quota	None	7,034
1806900800	Other cocoa preparations under 21% milk, over-quota	None	1,827
1806901000	Other cocoa preparations over 21% milk, over-quota	None	300
1806902000	Other chocolate over 21% milk, over-quota	None	15
1806902800	Other lowfat chocolate under 21% milk, over-quota	None	30
1806905900	Other cocoa preparations over 10% sugar, over-quota	None	1,496
1901206000	Doughs over 65% sugar, under 25% milkfat, over-quota	None	50
1901904300	Other dairy preparations over 10% milk, over-quota	None	12,701
1901904700	Other dairy preparations under 10% milk, over-quota	None	2,317
1901905800	Starch preparations over 10% sugar, over-quota	None	350
2008113500	Blanched peanuts, over-quota	None	67,438
2008116000	Otherwise prepared peanuts, over-quota	None	320,098
2101204800	Tea preparations over 65% sugar, over-quota	None	976
2105004000	Edible ice containing milk, over-quota	None	24,457
2106907600	Other food >65% sugar over 10% milk, over-quota	None	7.960
2106909100	Other syrups under 10% milk, over-quota	None	42
2106909400	Other food preparations >65% sugar under 10% milk, over-quota	None	66,634
2106909700	Other food preparations >10% sugar under 10% milk, over-quota	None	222,063
5201001800	Short staple cotton, over-quota	None	150

Table MA:5

MARKET ACCESS: United States of America

REPORTING PERIOD: Calendar year 1997

Annual summary of special safeguard actions taken

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period Affected quantities (kg.)
1	2	3	4
0401307500	Cream over 45% fat, over-quota	None	60
0402105000	Milk powder under 1.5% fat, over-quota	None	309
0402215000	Dried milk 3-35% fat, over-quota	None	360
0402219000	Dried milk over 35% fat, over-quota	None	100
0402295000	Sweetened milk powder, over-quota	None	101
0402994500	Sweetened condensed milk, airtight cont., over-quota	None	3,597
0402995500	Other sweetened condensed milk, over-quota	None	12,820
0402999000	Sweetened evaporated milk, over-quota	None	849
0403905500	Dried sour cream 6-35% fat, over-quota	None	34
0404101500	Modified whey, over-quota	None	25
0406101800	Fresh blue cheese, over-quota	None	20
0406104800	Fresh Edam/Gouda cheese, over-quota	None	41
0406105800	Fresh Italian-type cheese, over-quota	None	8
0406106800	Fresh Gruyere processed cheese, over-quota	None	48
0406107800	Fresh lowfat cheese, over-quota	None	11,933
0406108800	Fresh cheese, NSPF, over-quota	None	2,277
0406203300	Grated or powdered Cheddar cheese, over-quota	None	40
0406205300	Grated or powdered Italian-type cheese, over-quota	None	77
0406207100	Powdered mixtures of American-type cheese, over-quota	None	4
0406207500	Powdered mixtures of Edam/Gouda cheese, over-quota	None	210
0406209100	Powdered cheese NSPF, over-quota	None	103
0406307100	Processed mixtures of American-type cheese, over-quota	None	39
0406307500	Processed mixtures of Edam/Gouda cheese, over-quota	None	8

0406307900	Processed mixtures of Italian-type cheese, over-quota	None	114
0406308300	Processed mixtures of Gruyere, over-quota	None	13
0406309100	Processed cheese, NSPF, over-quota	None	292
0406407000	Other blue cheese, over-quota	None	924
0406901200	Other Cheddar cheese, over-quota	None	213
0406901800	Other Edam/Gouda, over-quota	None	3,280
0406904200	Other Italian-type cheese, over-quota	None	38,234
0406906800	Other mixtures of Italian-type cheese, over-quota	None	24
0406908400	Other mixtures of American-type cheese, over-quota	None	34
0406909200	Other mixtures of Gruyere, over-quota	None	7
0406909700	Other mixtures of cheese, NSPF, over-quota	None	24,383
1202208040	Other shelled peanuts, over-quota	None	647
1701115000	Raw cane sugar, over-quota	None	214,915
1701913000	Coloured sugar, over-quota	None	114,761
1701914800	Flavoured sugar over 65% sugar, over-quota	None	225
1701915800	Flavoured sugar over 10% sugar, over-quota	None	3,274
1701995000	Refined sugar, over-quota	None	388,196
1702902000	Sugar syrup, over-quota	None	22,852
1702905800	Other blended syrups, over-quota	None	6,145
1702906800	Other sugars over 65% sugar, over-quota	None	1,860
1704905800	Dairy confectionery, over-quota	None	1,198
1704906800	Sugar confectionery over 65% sugar, over-quota	None	6,617
1704907800	Sugar confectionery over 10% sugar, over-quota	None	36,517
1806101500	Cocoa powder, over 10% sugar, over-quota	None	1.487
1806102800	Bulk cocoa powder over 65% sugar, over-quota	None	600
1806203600	Bulk lowfat chocolate under 21% milk, over-quota	None	200
1806203800	Bulk lowfat chocolate over 21% milk, over-quota	None	1,000
1806208200	Bulk cocoa preparations under 21% milk, over-quota	None	840
1806209800	Bulk cocoa preparations over 10% sugar, over-quota	None	1,150
1806900800	Other cocoa preparations under 21% milk, over-quota	None	298
1806901000	Other cocoa preparations over 21% milk, over-quota	None	300
1806901800	Other chocolate under 21% milk, over-quota	None	31
1806902000	Other chocolate over 21% milk, over-quota	None	42

1806902800	Other lowfat chocolate under 21% milk, over-quota	None	126
1806903000	Other lowfat chocolate over 21% milk, over-quota	None	50
1806905900	Other cocoa preparations over 10% sugar, over-quota	None	3,064
1901904300	Other dairy preparations over 10% milk, over-quota	None	13,962
1901904700	Other dairy preparations under 10% milk, over-quota	None	1,428
1901905800	Starch preparations over 10% sugar, over-quota	None	14,453
2008113500	Blanched peanuts, over-quota	None	35,711
2008116000	Otherwise prepared peanuts, over-quota	None	30,521
2101203800	Tea syrups, over-quota	None	10
2101205800	Tea preparations over 10% sugar, over-quota	None	234
2105002000	Ice cream, over-quota	None	10 liters
2105004000	Edible ice containing milk, over-quota	None	34,124
2106904600	Coloured syrup, over-quota	None	545
2106907200	Other syrups over 10% milk, over-quota	None	1,184
2106908000	Other food preparations >10% sugar over 10% milk, over-quota	None	107
2106909100	Other syrups under 10% milk, over-quota	None	14
2106909400	Other food preparations >65% sugar under 10% milk, over-quota	None	16,376
2106909700	Other food preparations >10% sugar under 10% milk, over-quota	None	24,041

WORLD TRADE ORGANIZATION

G/AG/N/USA/26
9 June 1999

(99-2317)

Committee on Agriculture

Original: English

NOTIFICATION

The following notification concerning the use of special safeguard provisions (**Table MA:5**) for calendar year **1998** was received from the delegation of the **United States** on 4 June 1999.

United States price-based safeguards are invoked automatically on a shipment-by-shipment basis. Importers who enter goods in an over-quota tariff line are required to declare which pre-established price range is applicable to their product. If there is a safeguard duty associated with that price range, the additional charge is assessed. Entries where the safeguard duties were assessed during the reporting period are summarized in this notification. Information on affected quantities, while not required by the format, is provided for illustrative purposes. Multiple transactions involving the same product have been aggregated for the purposes of this notification.

United States volume-based safeguards may be invoked when the U.S. Department of Agriculture determines that imports of a product subject to the volume safeguard exceed a pre-determined trigger level.

Table MA:5

MARKET ACCESS: United States of America

REPORTING PERIOD: Calendar year 1998

Annual summary of special safeguard actions taken

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period Affected quantities
1	2	3	4
0402105000	Milk powder under 1.5% fat, over-quota	None	75,700 kg.
0402215000	Dried milk 3-35% fat, over-quota	None	175,497 kg.
0402219000	Dried milk over 35% fat, over-quota	None	126 kg.
0402295000	Sweetened milk powder, over-quota	None	2,475 kg.
0402917000	Evaporated milk, airtight cont., over-quota	None	120 kg.
0402994500	Sweetened condensed milk, airtight cont., over-quota	None	36,123 kg.
0402995500	Other sweetened condensed milk, over-quota	None	20 kg.
0402999000	Sweetened evaporated milk, over-quota	None	2,264 kg.
0404101500	Modified whey, over-quota	None	6,750 kg.
0404109000	Dried whey, over-quota	None	25 kg.
0406100800	Changos, over-quota	None	319 kg.
0406102800	Fresh Cheddar cheese, over-quota	None	19,063 kg.
0406104800	Fresh Edam/Gouda cheese, over-quota	None	26 kg.
0406105800	Fresh Italian type cheese, over-quota	None	1,267 kg.
0406106800	Fresh Gruyere process cheese, over-quota	None	20 kg.
0406107800	Fresh lowfat cheese, over-quota	None	3,678 kg.
0406108800	Fresh cheese, NSPF, over-quota	None	10 kg.
0406205300	Grated or powdered Italian type cheese, over-quota	None	34 kg.
0406207500	Powdered mixtures of Edam/Gouda cheese, over-quota	None	95 kg.
0406207900	Powdered mixtures of Italian type cheese, over-quota	None	20 kg.
0406209100	Powdered cheese NSPF, over-quota	None	14 kg.
0406303800	Processed Colby, over-quota	None	10,484 kg.
0406305300	Processed Gruyere, over-quota	None	840 kg.
0406307900	Processed mixtures of Italian type cheese, over-quota	None	108 kg.
0406309100	Processed cheese, NSPF, over-quota	None	64 kg.

0406407000	Other blue cheese, over-quota	None	3,683 kg.
0406901200	Other Cheddar cheese, over-quota	None	5,132,744 kg.
0406901800	Other Edam/Gouda, over-quota	None	16 kg.
0406904200	Other Italian type cheese, over-quota	None	103,708 kg.
0406906800	Other mixtures of Italian type cheese, over-quota	None	9 kg.
0406907800	Other mixtures of Cheddar cheese, over-quota	None	572 kg.
0406908400	Other mixtures of American-type cheese, over-quota	None	1,881,823 kg.
0406908800	Other mixtures of Edam/Gouda cheese, over-quota	None	135 kg.
0406909200	Other mixtures of Gruyere, over-quota	None	46 kg.
0406909700	Other mixtures of cheese, NSPF, over-quota	None	382,982 kg.
1701115000	Raw cane sugar, over-quota	None	90,707 kg.
1701913000	Colored sugar, over-quota	None	16,367 kg.
1701914800	Flavored sugar over 65% sugar, over-quota	None	431 kg.
1701915800	Flavored sugar over 10% sugar, over-quota	None	591 kg.
1701995000	Refined sugar,over-quota	None	160,916 kg.
1702302800	Glucose, blended, over-quota	None	210 kg.
1702902000	Sugar syrup, over-quota	None	23,058 kg.
1702906800	Other sugars over 65% sugar, over-quota	None	2,828 kg.
1704905800	Dairy confectionery, over-quota	None	12,512 kg.
1704906800	Sugar confectionery over 65% sugar, over-quota	None	36,117 kg.
1704907800	Sugar confectionery over 10% sugar, over-quota	None	1,398 kg.
1806101500	Cocoa powder, over 10% sugar, over-quota	None	100 kg.
1806107500	Cocoa powder, over 90% sugar, retail, over-quota	None	603 kg.
1806203600	Bulk lowfat chocolate under 21% milk ,over-quota	None	396 kg.
1806208200	Bulk cocoa preparations under 21% milk, over-quota	None	2,786 kg.
1806209800	Bulk cocoa preps over 10% sugar, over-quota	None	96 kg.
1806900800	Other cocoa preparations under 21% milk, over-quota	None	2,498 kg.
1806901000	Other cocoa preparations over 21% milk, over-quota	None	972 kg.
1806901800	Other chocolate under 21% milk, over-quota	None	612 kg.
1806902800	Other lowfat chocolate under 21% milk, over-quota	None	896 kg.
1806905900	Other cocoa preps over 10% sugar, over-quota	None	119 kg.
1901104000	Other infant preparations, over 10% milk, over-quota	None	120,162 kg.
1901206000	Doughs over 65% sugar,under 25% milkfat, over-quota	None	63 kg.
1901904300	Other dairy preparations over 10% milk, over-quota	None	44,609 kg.

1901904700	Other dairy preparations under 10% milk, over-quota	None	366 kg.
1901905800	Starch preparations over 10% sugar, over-quota	None	14,258 kg.
2008113500	Blanched peanuts, over-quota	None	33,000 kg.
2008116000	Otherwise prepared peanuts, over-quota	None	15,050 kg.
2101205800	Tea preparations over 10% sugar, over-quota	None	1,659 kg.
2105002000	Ice cream, over-quota	None	14 l.
2105004000	Edible ice containing milk, over-quota	None	59,765 kg.
2106906600	Other dairy preparations over 10% milk, over-quota	None	202 kg.
2106907200	Other syrups over 10% milk, over-quota	None	570 kg.
2106907600	Other food preps >65% sugar over 10% milk, over-quota	None	45 kg.
2106908000	Other food preps >10% sugar over 10% milk, over-quota	None	48 kg.
2106909100	Other syrups under 10% milk, over-quota	None	51 kg.
2106909400	Other food preps >65% sugar under 10% milk, over-quota	None	8,098 kg.
2106909700	Other food preps >10% sugar under 10% milk, over-quota	None	130,454 kg.
2202902800	Milk based drinks, over-quota	None	4,247 kg.
	Sheep meat*	3,709 tonnes	N/A

*Notes on sheep meat safeguard action (volume-based):
- Tariff items subject to the safeguard include: 02042100, 02042240, 02042340, 02044100, 02044240, 02044340.
- Safeguard applied to imports from 10 August 1998 to 31 December 1998 (see G/AG/N/USA/18).
- Sheep meat is not subject to a price-based safeguard.

APPENDIX H

STATISTICAL PROCEDURES

H-1

STATISTICAL PROCEDURES

Business Cycles in U.S. Sugar Production

One indication of business cycles can be gained by examining the power spectrum. The power spectrum shows the contribution to the variance made by cycles of difference frequencies. An economic interpretation is that the area under peaks in the power spectrum indicates how much variability in yearly growth rates is due to economic cycles.[1] The smoothed periodogram is the sample analog of the spectrum. The periodogram is smoothed because its variance does not decrease as sample size increases, and estimates of the raw periodogram are thus inconsistent.

This approach was implemented by taking first differences of the logarithms of the yearly U.S. production of sugar in short tons from 1970 to 1999 (1999 figures were estimates). The differenced series consisted of 29 data points of annual growth rates, which is a relatively short series for this type of analysis. With yearly observations, the shortest period that could be observed would be 2 years, and the longest would be the length of the data series, or 29 years.

An estimation procedure was used that detrended the series to make it stationary and then estimated the smoothed periodoram (see figure H-1). Only minimal smoothing was feasible given the length of the series. The first peak occurs at a frequency of 0.067 cycles per year, or once every 20.9 years; the second peak occurs at 0.167 cycles per year or once every 15 years, and the third peak occurs at 0.30 cycles per year or once every 3-1/3 years. A conclusion is supported that cycles of different length are contributing to the variance, and there is no single predominate business cycle. Also, the relatively wide 95 percent confidence interval (-4.2 to +8.3 from the point estimates) indicates the imprecision of the estimate. The confidence interval, which is a function of the number of observations, the amount of smoothing, and a chi-squared statistic, cannot be substantially improved without a longer data series.

Time Trend in World Sugar Production

A constant and a linear time trend were regressed on annual world sugar production (in thousands of short tons, raw value) from 1970 to 1999 (an estimated value was used for 1999). The estimated equation with t values in parentheses is shown below, where time is an integer representing years.

$$\begin{aligned} \textit{world production} &= \underset{(56.96)}{77{,}906} + \underset{(26.68)}{2{,}025}\ \textit{time} \end{aligned}$$

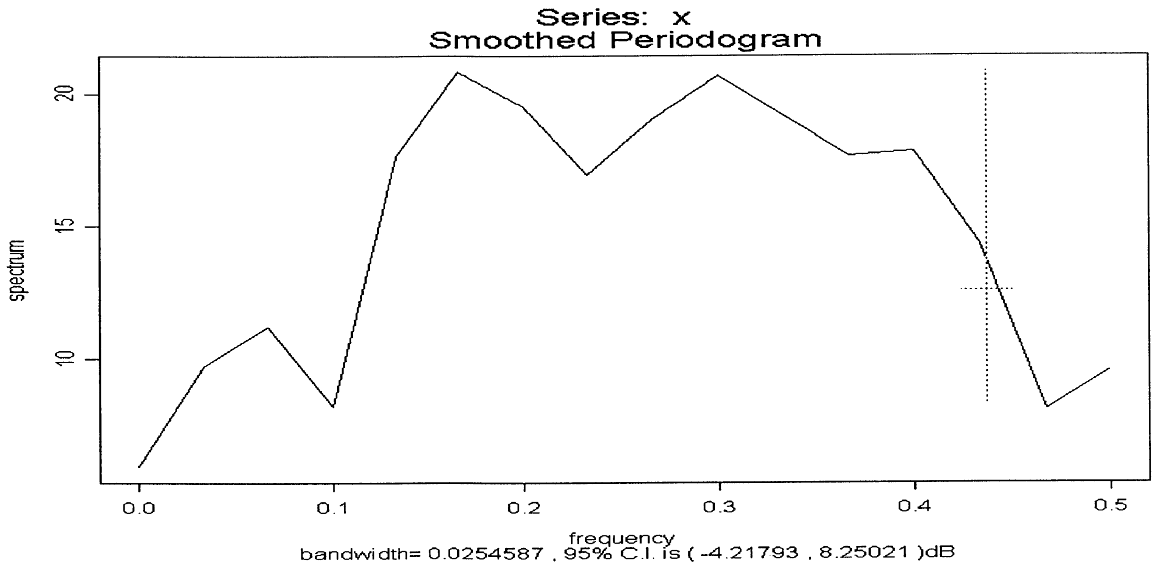
Both parameter estimates are highly significant, and the R-squared statistic is 0.96, which indicates a good fit. Thus, there is a strong positive relationship between world production and time for the years in the sample, as shown in figure II-1.

---

[1] James Hamilton, *Time Series Analysis*, pp. 168-169.

H-3

Figure H-1
Smoothed periodogram of the yearly growth rate of U.S. sugar production



Source: Calculated from yearly U.S. production levels (1970-99) from USDA, ERS.

H-4