SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

Determinations of Injury in Investigations Nos. AA1921-198, AA1921-199, and AA1921-200 Under the Antidumping Act, 1921, as Amended

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
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Determinations of Injury

On the basis of information developed during the course of investigations Nos. AA1921-198, AA1921-199, and AA1921-200, the Commission unanimously determines that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On February 16, 1979, the United States International Trade Commission received advice from the Department of the Treasury that sugar from Belgium, France, and West Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 1, 1979, the Commission instituted investigations Nos. AA1921-198 (sugar from Belgium), AA1921-199 (sugar from France), and AA1921-200 (sugar from West Germany) under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Miami, Florida, on April 10, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of March 8, 1979 (44 F.R. 12777). Notice of the time and place of the public hearing was made in the same manner and was published in the Federal Register of March 21, 1979 (44 F.R. 17235).

The Treasury Department instituted its investigation after receiving a complaint filed on July 10, 1978, by counsel for the Florida Sugar Marketing and Terminal Association, Inc. Treasury's notices of withholding of appraisement and its determinations of sales at LTFV were published in the Federal Register of February 12, 1979 (44 F.R. 8049).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews and other sources.

Statement of Reasons of Chairman Joseph O. Parker, Vice Chairman Bill Alberger, and Commissioners George M. Moore and Catherine Bedell

By a letter dated February 6, 1979, the Department of the Treasury advised the Commission that sugar from France, Belgium, and West Germany is being, or is likely to be, sold at less than fair value (LTFV). For purposes of Treasury's investigation, the articles under consideration were defined as raw and refined sugar provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States.

In this determination, we have found that the U.S. industry that is being injured by the sales of sugar at LTFV consists of the facilities for the production of sugar cane and raw cane sugar in the Southeastern region of the United States, that is, Florida sugar cane and raw cane sugar producers. This region also consists of the area served by Florida producers, namely the states of Florida and Georgia in which the major refining capacity is located. 1/2/ The

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1/ In amending certain provisions of the Antidumping Act in 1974, Congress reviewed, among other things, the concept of regional markets. While Congress did not change the law with respect to this concept, the Committee on Finance of the Senate, in its report on the bill which became the Trade Act of 1974 and which amended the provisions of the Antidumping Act, summarized prior Commission practice in this regard and expressed agreement with it as follows:

> A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. (Trade Reform Act of 1974: Report of the Committee on Finance . . . , S. Rept. No. 93-1298 (93d Cong., 2d sess.), 1974, pp. 180-181.)

The report further stated (p. 181) that the concept is not one which readily lends itself to hard and fast rules:

> However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to an industry.

2/ Commissioner Alberger joins with Commissioner Stern in additional views on the question of regional injury. See p. 19 of the report.

Southeastern region received about 78 percent of the sugar imports from Belgium, France, and West Germany. Before the LTFV sales in the Southeastern regional market, the Florida sugar producers supplied nearly all the raw sugar used by the two refiners in this region, with sales to these refiners historically accounting for about 85 percent of the distribution of the sugar of the Florida producers.

Injury by reason of LTFV imports

The Department of the Treasury made price comparisons on raw sugar imported from Belgium, France, and West Germany during the 6-month period March 1, 1978-August 31, 1978, and determined that all such imports were being sold at LTFV. The LTFV margins on sales from Belgium ranged from 47 to 56 percent of the home-market price, with a weighted average margin of 51 percent. The margins on sales from France ranged from 38 to 57 percent of the home-market price, with a weighted average margin of 51 percent. The margin on sales from West Germany was 55 percent of the home-market price. All the sugar imported was raw sugar.

About 78 percent of these imports were entered at Savannah, Ga., to be further processed by Savannah Foods & Industries, Inc. at its refinery there. These imports represented about 9 percent of the sugar refined in the Southeastern region during 1978 and accounted for about one-third of total imports into the region in that year.

Excluding the raw sugar marketed under long-term contracts by two producers, there were about 500,000 tons of raw sugar produced in the Southeast during the 1977/78 crop year available for distribution during 1978. Of this amount, however, only 283,000 tons was marketed. The primary reason for the inability of Southeastern producers to market the remainder of this raw sugar was the presence of lower priced, imported sugar, about one-third of which was found by Treasury to have been sold at LTFV. Information available to the Commission indicates that these LTFV imports undersold Florida producers by an average of .42 cents per pound. Given the LTFV margins of 7.94-8.61 cents per pound found by Treasury, it is clear that no sugar from Belgium, France, or West Germany could have been sold in the United States had it been priced at fair value.

Since April 1978, the Florida Sugar Marketing & Terminal Association has sold no sugar to Savannah Foods & Industries even though it has a standing offer to sell at the price required to match returns under the price-support loan program. Information made available to the Commission by Savannah shows that its purchases from Belgium, France, and West Germany were all at prices below this standing offer price. Unable to market their sugar, the Southeastern producers have been forced to put more than 40 percent of the 1977/78 crop into the loan program of the Commodity Credit Corporation resulting in increased inventories in the Southeast.

Florida cane mills had yearend inventories for 1977 of 233,531 short tons, raw value. Yearend inventories for 1978 were 436,652 short tons, raw value, not counting an additional 120,648 short tons which had already been forfeited under price-support loan to the Commodity Credit Corporation. Thus, inventories increased substantially during the period of LTFV sales, and the high levels are continuing. The U.S. Department of Agriculture reports that 564,139 short tons, raw value, was held as collateral under price-support loans by the Florida sugar industry on April 30, 1979.

Information submitted to the Commission indicates that the market value of Florida sugar production has been below the cost of production for raw sugar in Florida since the 1976/77 crop. Data submitted to the Commission by firms representing about 72 percent of Florida raw-sugar milling showed significantly lower net returns in the 1978 accounting year compared with those in the 1976 accounting year. All the improvement in net returns that occurred in 1978 compared with 1977 was because of contributions to net returns by price-support operations of the U.S. Department of Agriculture.

Conclusion

On the basis of the foregoing considerations, we have determined that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS OF COMMISSIONER PAULA STERN

Having considered all the information before me in this investigation, I have determined, pursuant to Section 201 of the Antidumping Act of 1921, as amended, that an industry in the United States is being injured by reason of the importation of raw sugar from Belgium, France, and West Germany into the United States at less than fair value.

The Domestic Industry

The products under review in this case are sugar cane and raw sugar. Refined sugar is produced from sugar cane which has been first milled into raw sugar. It can also be produced directly from sugar beets by a different process. The relevant industry is therefore composed of growers and millers of sugar cane and does not include either sugar refiners or domestic sugar beet growers.

As fully explained in my joint views with Commissioner Alberger, which appear at pages 19 to 21, I believe that in this case the Southeast constitutes a region for the purpose of determining whether injury to the region constitutes injury to an industry under the Antidumping Act. The Southeast region consists of sugar cane growers and millers located in Florida; the regional customers are refiners found in Savannah, Georgia, and Florida.

Imports

The imported article in this investigation is raw sugar from Belgium, France, and West Germany. The Treasury Department examined all sales from these nations made between March 1, 1978, and August 31, 1978, and found all were at less than fair value. The weighted average less-than-fair-value margins, as found by Treasury, for raw sugar from the three nations were respectively: 103 percent (Belgium), 102 percent (France), and 121 percent (West Germany), when compared to the purchase price of the imports. These imports were of beet sugar. However, since beet sugar shipped by sea requires further refining, it competes directly with domestic raw cane sugar for refinery customers.

Relevant Indicators for the Raw Sugar Industry

Section 201 of the Antidumping Act, as amended, does not set forth standards for determining whether an industry is being or is likely to be injured by reason of less than fair value imports. As a result, the Commission can and does exercise considerable discretion in making its determinations based upon the particular facts in each case. However, as I stated in an earlier opinion on steel wire nails (Investigation No. AA-1921-189), Section 201 of the Act requires the Commission to find that two conditions have been satisfied before an affirmative determination can be made. First, the Commission must determine that an industry is being or is likely to be injured. This determination is based upon an analysis of certain economic indicators -- consumption, production, capacity changes and utilization, shipments, inventory levels, employment and profits. Second, the Commission must determine that the injury is "by reason of" the less-than-fair-value imports. This second determination is based upon an analysis of such factors as market penetration by less-than-fair-value imports, documented lost sales of domestic manufacturers to less-than-fair-value imports, and a price depression or suppression of the impacted products. As for likelihood of injury, foreign capacity to produce for export is also considered.

However, this case is the first antidumping matter to come before the Commission in which the commodity in question is under an agricultural price support program actively intervening in its market. As explained more fully below, the intervention of the price-support program has had an unusual but significant impact on several of the traditional indicators utilized by the Commission in evaluating injury.

It is also important to note that the indicators most often relied on in evaluating whether injury is due to the less-than-fair-value imports in question may also be used to demonstrate injury. In cases where the Commission has adequate profit data at its disposal, the effects of lost sales and price depression, for example, are already reflected in profits, one measure of an industry's health. But where there are problems with obtaining data related to the traditional indicators of injury, it is appropriate to evaluate the industry's health by taking into consideration market penetration, lost sales, and price depression.

Complicating the analysis in this case is the lack of guidance the Antidumping Act provides on the special problems that emerge when assessing the economic conditions prevailing in an agricultural industry. For example, what is the meaning of capacity for an industry in which yields and even acreage harvested are as much the result of nature's whims as human will? What is the significance of year-to-year employment statistics for a perennial crop which must be planted at least two years before the first harvest becomes possible? How should the Commission judge the financial performance of an industry for which profit information is available only after long time lags; for which costs of production are based on stale data and may only be calculated by treating the cost of land in one of two widely-differing manners; and for which the data coverage is adequate for only one segment of an industry integrating two operations (growing and milling)?

These difficult questions are compounded by the intervention in the market of a price-support program. When an industry can sell to the government at a price-support level above the market price, massive inventories may be transferred to the government. How should the Commission view incomplete financial data when they are augmented by income from the price-support program? How should the Commission treat inventories converted into government stocks by means of the price-support program?

In view of the unique factors inherent in this case, I believe that a flexible approach is required in evaluating the condition of the industry's health. The traditional indices are still of major value in assessing the economic state of the domestic industry. But in many instances they must be qualified if the Commission is to avoid being misled.

In order to develop the flexible approach required by this case, it is essential first to understand the purposes and operation of the price-support program for raw sugar.

Title II of the Agricultural Adjustment Act of 1949, as amended by the Food and Agriculture Act of 1977, provides for the price-support loan program that began in November 1977. Price support levels were established for the 1977 and 1978 crops. Should the market price fall below these levels, sugar cane millers can receive loans at the price support level for unlimited quantities of their raw sugar from the Commodity Credit Corporation (CCC) at a low interest rate, with the sugar as collateral.

During the first year that their sugar is under loan, the millers pay the storage costs. To take sugar out of loan, the owner must repay the loan with interest plus often significant storage costs. After a year, they may default on as much of their sugar under loan as they wish by forfeiting the collateral to the CCC. After default, the loans are forgiven.

A major policy issues emerges as to how the Commission should treat the effects of the operation of the price-support program on the traditional indicators of the industry's economic condition. In general, the operation of this program tends to ameliorate the picture of the industry's health by raising the effective price at which the producers can dispose of their product, decreasing the inventories held by producers, and improving profits or lowering losses. Neither the Antidumping Act nor the Food and Agriculture Act of 1977 provides clear guidance as to whether the Commission should adjust for these influences.

On the one hand, it appears that the price-support program is not intended to be a continuous factor in the raw sugar market.*/ Consequently, the Commission could analyze the condition of this industry, to whatever extent possible, independent of any mitigating effects caused by the operation of the program (e.g., by comparing the free market price to costs of production, adding CCC stocks to inventories, and eliminating from profits that income supplied by the program).

On the other hand, the CCC is in fact making large expenditures and accumulating massive stocks of raw sugar. Under the circumstances,

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*/ The Conference Report on the Food and Agriculture Act of 1977, in discussing the prospective operation of the price-support program, states:

> It is not expected, however, that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugar cane or sugar beets. The Conferees expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which--when added to the current import duty--will enable raw sugar to sell in the domestic market at not less than the effective support price.

it may be appropriate to analyze the condition of the industry including the mitigating effects of the program's operation (e.g., by comparing the price support level to costs of production, looking at inventories held only by producers, and including the program's contribution to profits).

Fortunately neither inclusion nor exclusion of the mitigating effects of the price-support program's operation alters the finding of injury in this case. In order to avoid possible future problems, it would be helpful for the Congress to give the Commission guidance in this matter.

Injury

Because I consider the Southeast a region, I shall focus on it in examining the relevant data. In the Southeast, there are three refineries. The two found in Florida are of minor importance; they are relatively small and are not subject to import penetration as a result of their inland location. The third refiner, Savannah Foods and Industries, Inc., is found in the Georgia port after which it is named and is subject to import penetration.

Production in Florida has responded to a number of stimuli. Following the expiration at the end of 1973 of production quotas under the Sugar Act of 1934, and the onset of record high prices for sugar in 1974/75, Florida sugar production expanded from 244 million acres harvested (1972/73) to 287 million acres (1975/76), a level which has remained roughly stable through the present. The vagaries of Mother Nature have produced a variation of yields between extremes of

8.5 and 10.1 million short tons of sugar cane in the period 1975-79. It is estimated that acreage harvested in Florida increased slightly in 1978/79 because of good weather conditions and an expansion of acreage by the U.S. Sugar Corporation. (This firm increased its acreage because in 1976/77 it reportedly failed to produce sufficient sugar to fulfill its long-term supply contracts with Savannah Foods and Industries, Inc.)

The Commission received no data on employment. However, for a perennial crop which takes two years to reach maturity, employment data would not have been helpful in determining injury because growers will not abandon their fields unless the outlook for the future worsens drastically.

Capacity utilization for the growers has no meaning. The principal limitation on the capacity to produce sugar crops is the availability of milling facilities. In Florida, these were expanding through the 1975/76 crop year. Since then, one small cane mill has closed. Current facilities can handle, however, up to 20 percent more crop than is currently being produced.

Unfortunately, the data on inventories in Florida made available by the industry are for calendar years, while data on total production which comes from the U.S. Department of Agriculture are for crop years ending October 31. These are not completely consistent; but given that the bulk of 1976/77 crop, for example, is marketed in 1978, it is informative to look at inventory/production ratios which these data allow to be calculated for the two most recent crops. At the close of 1977, following a 1976/77 crop which yielded 930,000 short tons of sugar, 233,531 tons were held by Florida millers as inventory. The ratio of inventories to production was 25 percent. One year later, following a 1977/78 crop of 894,000 short tons, 436,652 tons were held in inventory (most in price-support loan) and 120,648 tons had been forfeited. Adding forfeitures to inventories yields a ratio to production of 62 percent, more than double the high level of the previous year. The United States Department of Agriculture expects that as much as one million tons may be forfeited from all eligible crops during the coming year.

Discussion of the financial performance of Florida cane sugar growers is made difficult by a number of complicating factors. The Commission has available to it three estimates of Florida costs of production based on two different studies. The latest USDA review dates from the end of the last decade, while the University of Florida completed a study in 1975. Both have been adjusted to the 1977/78 crop year by simply extrapolating from the earlier figures. For that crop year, with price support at 13.50 cents/pound, the three estimates were: 14.20 cents/pound (USDA, land at rental value), 15.79 (U. of Florida, land at rental value), and 16.54 (U. of Florida, land at market value). All indicate losses for growers on cane growing operations despite the salutory effects of having the CCC as a last resort purchaser when the regional price paid for raw sugar delivered to Savannah refineries had dropped to a weighted average of 13.76 cents/pound for the Belgian, French, and West German imports.*/

The financial picture for Florida sugar cane millers, the other sector of the industry, is somewhat better, though hardly bright. The Commission received data on four millers which mill 72 percent of the Florida sugar cane crop. They show a consistent pattern of high returns in 1975/76, low returns or losses in 1976/77, and a recovery in 1977/78 based largely on the availability of the price-support program in that year. It is possible for the millers to earn profits on the storage of sugar under loan or forfeiture, but the outcome is uncertain since the millers must rent storage facilities for the sugar on one-year leases while the government may decide to move the sugar under its control at any time. In the absence of the price-support loan program, the millers' performance in 1977/78 probably would have been poorer than in the previous year.

<u>Injury by Reason of Less-Than-Fair-Value Imports</u>

The traditional indicators, because of the severe shortages of data explained above, suggest injury to the Southeastern raw sugar growers and millers. I have nevertheless concluded, based on my further analysis of market penetration, lost sales, and price depression, that the industry before the Commission is injured. Considering these same

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*/ The price for imports is CIF duty paid, Savannah. To properly compare it with the price support, which is FOB cane mills, one must add 0.38 cent per pound freight to the latter.

indices, I also conclude that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, which the Department of Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Nationally, raw sugar imports from Belgium, France, and West Germany increased rapidly from one ton in 1975, to 16,000 tons in 1976, to nearly 49,000 tons in 1977. In 1978, these imports amounted to 85,000 tons. During 1978, more than 78 percent of these imports of raw sugar from Belgium, France, and West Germany were marketed in the Southeastern region. Over eight percent of the raw sugar refined in the region was imported from the three European nations found by the Treasury Department to be selling at less than fair value. Concurrently, the traditional 87 percent regional market share that Florida sugar had enjoyed dropped precipitously to 65 percent.

The significance of any particular level of market penetration depends on the price elasticity of the commodity. Because the quantity of sugar consumed is by its very nature not responsive to price changes, relatively small changes in supply can cause major price changes in the opposite direction.

Savannah, the major consumer of the less-than-fair-value sugar imports in question, has stated that its weighted average purchase price of the European Community sugar was 13.76 cents per pound. For Florida sellers not under long-term contract, prices received for shipments to Savannah from January to July 1978 (but contracted for before

April 21, 1978) were 13.80 cents per pound, FOB Florida mills, which, after transportation costs were added, gave a price at Savannah of 14.18 cents per pound. Florida sugar producers needed a price of 13.88 cents per pound to match returns available by forfeiting sugar under price-support loans to the Commodity Credit Corporation.

The Florida Sugar Marketing & Terminal Association, Inc., a major milling cooperative, sold no sugar to the Savannah refinery after April 21, 1978, even though it had a standing offer to sell sugar at the price required to match returns under the price-support loan program. During 1978, the Florida sugar industry had 212,000 short tons, raw value of 1977/78 crop sugar under price-support loan. Imports at less than fair value from the three European Community nations in question purchased by Savannah were 66,000 short tons. Florida sugar producers convincingly maintained that these low-priced sugar imports from Belgium, France, and West Germany displaced sugar which they normally would have sold to the Savannah refinery.

Conclusion

Given the indications of injury to the Southeast raw sugar industry, I must conclude that the sugar cane and raw sugar industry in the United States is injured by reason of less-than-fair-value sales by Belgium, France, and West Germany.

ADDITIONAL VIEWS OF COMMISSIONERS ALBERGER AND STERN
WITH RESPECT TO REGIONAL INJURY

In the Commission's most recent decision under the Antidumping Act, Carbon Steel Plate from Taiwan,[1/] we set forth what we consider to be the relevant factors for defining regional industries. We noted that, "the Commission has considerable discretion to analyze the commercial context of a particular case and apply a 'geographic segmentation principle'". We also emphasized the importance of exercising that discretion in a consistent and logical manner.

In that case, we analyzed Commission precedent, legislative reports, and the purposes underlying the Antidumping Act itself. We concluded that three factors merit consideration before any geographic segmentation of the industry is made. These factors are: (1) whether the region under consideration is separate and identifiable, (2) whether LTFV imports are concentrated in that region, and (3) whether that region constitutes a significant part of the domestic industry. We have considered those factors in the context of the present case, and feel that the following points should be made about our finding as to the relevant industry.

The facts clearly demonstrate that the Southeastern raw sugar producing industry is separate and identifiable. Prior to 1978, nearly 85 percent of all raw cane production within the region was marketed to local refineries. The percentage of sales to local refineries dropped substantially in 1978, but this was due to low priced imports, including LTFV imports from the European Community. The displaced Florida raw sugar was then stored under the price-support program rather than marketed outside the region. As a general rule,

1/ Inv. AA1921-197, USITC Pub. 970 (May 1979). See, Additional Views of Commissioners Alberger and Stern, at p. 20.

growers within the Southeast serve the regional market predominantly or exclusively. 2/ Moreover, the Southeastern refineries have not been served by domestic producers outside the region. 3/ Thus, Florida cane sugar producers form an "isolated" industry, as that term has been used in prior Commission decisions. 4/ Transportation costs apparently play an important role in this regional distribution, since sugar in its unrefined state is a bulky commodity, and has a relatively low value per ton. In addition, historical marketing conditions allowed Florida growers to sell locally until low world prices disrupted this practice. While some efforts have recently been made to sell outside the region, 5/ it is probably not economically viable to sell large quantities to more distant buyers, particularly when surplus sugar exists throughout the country.

It is also clear that the LTFV sales found by Treasury were concentrated in the Southeastern United States. In fact, 78 percent of such imports entered through the port of Savannah and were sold to the refinery located there. It is true that all of the LTFV sales occurred within a span of two months, and hence it is difficult for us to guage the "focusing of marketing

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2/ The majority's statement noted the significance of this fact to their finding of a regional industry. See, supra at pp. 3-4. In fact, the majority opinion quotes the Senate Finance Report on the Trade Act, which makes the same point.

3/ This fact is not mentioned in the majority's statement, but we believe that, for the reasons we expressed in Carbon Steel Plate from Taiwan, it relates to the separate and identifiable nature of the region. See, Carbon Steel Bars and Shapes from Canada, Inv. AA1921-39, TC Pub. 135 (Sept. 1974).

4/ See, e.g., Steel Reinforcing Bars from Canada, Inv. AA1921-33, TC Pub. 122 (March 1964), Views of Commissioners Dorfman and Talbot, at p. 12.

5/ Mr. George Wedgworth, President of the Sugar Cane Cooperative of Florida testified that a new operation involving shipments by barge to Northeastern refineries has begun. See Transcript of Commission Hearing at pp. 78-79.

efforts" which we considered relevant in Carbon Steel Plate from Taiwan. 6/ However, in this case we feel that severity is more relevant than brevity. Belgium, France and West Germany supplied more than 10 percent of the Savannah refineries' annual consumption. The brief duration of these imports is less relevant when one considers that sugar transactions occur on a seasonal basis. Accordingly, we are persuaded that concentration within the Southeastern region has occurred.

Finally, it is our view that the Southeastern raw sugar producing region represents a significant part of the national industry. For the 1977-78 crop year, Florida produced 879,000 short tons of raw sugar; more than 14 percent of the total U.S. production. In recent years, Florida has ranked second among all states in sugar production. Clearly, this region accounts for a significant share of U.S. production, and a determination based on injury to this region is not inequitable.

6/ USITC Pub.970, Additional Views at p. 22.

INFORMATION OBTAINED IN THE INVESTIGATION

Summary

On February 16, 1979, the United States International Trade Commission received advice from the Department of the Treasury that sugar from Belgium, France, and West Germany, provided for in TSUS items 155.20 and 155.30, is being, or is likely to be, sold in the United States at less than fair value. On March 1, 1979, the Commission instituted investigations Nos. AA1921-198, 199, and 200, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. On September 17, 1978, the Commission reported its determinations in inquiries Nos. AA1921-Inq.-20, 21, and 22, that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for terminating the Treasury investigation were not satisfied.

About 55 percent of the sugar consumed in the United States comes from domestic sources (30 percent from sugar beets and 25 percent from sugar cane), and 45 percent comes from foreign sources. Sugar imported from Belgium, France, and West Germany is from sugar beets; virtually all other imports are of sugar from cane. Sugar beets are currently produced in 18 States; sugar cane is produced in four States and Puerto Rico. The Florida sugar industry in recent years has accounted for about 14 percent of total U.S. sugar production.

The leading suppliers of U.S. sugar imports are the Philippines, the Dominican Republic, and Brazil. Belgium, France, and West Germany are minor suppliers of U.S. sugar imports. Collectively, imports from Belgium, France, and West Germany increased from one ton 1/ in 1975, to 16,000 in 1976, nearly 49,000 tons in 1977, and about 85,000 tons in 1978. The average margin of sales at less than fair value in 1978 was 51 percent of the home-market price.

Data submitted to the Commission indicate that the value of Florida sugar production has been below the cost of production since the 1975/76 sugar crop. Since the institution of the price-support loan program for the 1977 and 1978 sugar crops, a large portion of Florida sugar production has gone under price-support loan, and a substantial portion of the 1977 crop sugar was forfeited to the Commodity Credit Corporation. Most of the 1978 Florida sugar crop is also going under price-support loans.

Total U.S. inventories of sugar have increased from 2.9 million tons in 1972 to more than 4.5 million tons in 1977. In 1978, U.S. inventories were 3.98 million tons, of which 0.17 million tons were cane sugar stocks forfeited to the Commodity Credit Corporation.

During 1960-73, annual U.S. consumption of sugar increased from 9.5 million to 11.8 million tons, raw value. Consumption then dropped sharply to 10.2 million tons in 1975, following the increase in sugar prices to record

1/ Unless otherwise specified, the term "tons" as used in this report refers to short tons of 2,000 pounds each.

levels toward the end of 1974. Total sugar consumption then rose to 11.4 million tons in 1977, but fell to 11.0 million tons in 1978. As a percentage of consumption, imports from Belgium, France, and West Germany have increased from zero in 1972 to 0.77 percent in 1978.

The Florida sugar industry usually sold about 85 percent of its sugar in the Southeastern region. The Southeastern region received about 78 percent of all sugar imports from Belgium, France, and West Germany in 1978.

Imports of sugar from Belgium, France, and West Germany are subject to a countervailing duty of 10.8 cents per pound if they have benefited from bestowal of a grant or subsidy. In addition, since December 5, 1978, imports from these sources have been subject to an absolute quota pursuant to headnote 3, part 10A, schedule 1, of the Tariff Schedules of the United States, which limits imports from nonmembers of the International Sugar Agreement, 1977. Since the quota for 1978 and 1979 was already filled on December 5, 1978, imports from these countries are embargoed until the end of calendar year 1979.

Introduction

On February 16, 1979, the United States International Trade Commission received advice from the Department of the Treasury that sugar from Belgium, France, and West Germany, provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS), is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). 1/ Accordingly, on March 1, 1979, the Commission instituted investigations Nos. AA1921-198, AA1921-199, and AA1921-200, under section 201(a) of said Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. By statute, the Commission must render its determinations within 3 months of its receipt of advice from the Department of the Treasury--in this case by May 16, 1979.

Notice of the institution of the investigations and of the public hearing held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of March 8, 1979 (44 F.R. 12777). 2/ Notice of the time and place of hearing was made in the same manner on March 14, 1979, and was published in the Federal Register of March 21, 1979 (44 F.R. 17235). 3/

The complaint which led to Treasury's determinations of LTFV sales was filed on July 10, 1978, by counsel for the Florida Sugar Marketing and Terminal Association, Inc. Treasury's notice of antidumping proceeding was published in the Federal Register of Aug. 18, 1978 (43 F.R. 36746). Notice of Treasury's withholding of appraisement and determinations of sales of less than fair value were published in the Federal Register of February 12, 1979 (44 F.R. 8049). The petitioner contends that, because of the importation of raw and refined sugar from Belgium, France, and West Germany, the Florida sugar-producing industry is being injured by reason of lost sales in its regional market, where the LTFV imports have been sold.

On August 18, 1978, the Commission received advice from the Department of the Treasury that there was substantial doubt that an industry in the United States was being or was likely to be injured by reason of the importation of such sugar. On August 24, 1978, the Commission instituted inquiries Nos. AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22 under section 201(c) of said Act to determine whether there was no reasonable indication that an industry in the United States was being or was likely to be injured, or was prevented from being established, by reason of the importation of such sugar.

1/ A copy of Treasury's letter to the Commission concerning LTFV sales of sugar from Belgium, France, and West Germany is presented in app. A.

2/ A copy of the Commission's notice of investigation and hearing is presented in app. B.

3/ A copy of the Commission's notice of time and place of hearing is presented in app. C.

On September 17, 1978, the Commission reported its determinations that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for terminating the Treasury investigation had not been satisfied. Treasury, consequently, continued its investigation into the nature and extent of less-than-fair-value imports of sugar into the United States from Belgium, France, and West Germany.

Description and Uses

The products covered by the Treasury Department's determinations, according to its notice of its less-than-fair-value determinations, are "raw and refined sugar provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States." Raw and refined sugar are classified in TSUS item 155.20. TSUS item 155.30 covers liquid sugar and other sugar sirups. According to the Treasury notice, all of the imports during the investigation period were of raw sugar.

Sugar is derived from the juice of sugar cane or sugar beets. It is present in these plants in the form of dissolved sucrose. Most sugar is marketed to consumers in refined form as pure granulated or powdered sucrose. Substantial quantities also reach consumers as liquid sugar (sucrose dissolved in water) or in forms not chemically pure, such as brown sugar and invert sugar sirups, or as blends of sucrose with simpler sugars such as glucose and fructose.

Sugar cane is a perennial subtropical plant which is cut and milled to obtain sugar cane juice. Through a process of filtering, evaporating, and centrifuging this juice, a product consisting of large sucrose crystals coated with molasses, called raw sugar, is produced. Raw sugar derived from sugar cane is the principal "sugar" actually shipped in world trade. Raw sugar is generally refined near consumption centers through additional melting, filtering, evaporating, and centrifuging to yield the refined white (100 percent pure sucrose) sugar of commerce.

Sugar beets are annual temperate zone plants usually grown in rotation with other crops (to avoid disease and pest problems from growing two beet crops successively in the same field). Most sugar beets, including those grown in the United States, are converted directly into refined sugar; however, sugar beets grown in some countries are used to produce a product known as raw beet sugar. The refined sugar product derived from sugar beets is not distinguishable from that of sugar cane inasmuch as both are virtually chemically pure sucrose.

The overwhelming use of sugar in the United States is for human consumption, although some is used in specialty livestock feeds and in the production of alcohol. Sugar is primarily a caloric sweetening agent, but it also has preservative uses. In the United States, about one-third of the sugar consumed goes to household users and two-thirds to industrial users. There is currently little nonfood use of sugar in the United States and even less, proportionately, in the rest of the world.

U.S. Customs Treatment

U.S. tariff

The TSUS does not attempt to separately identify sugars, sirups, and molasses by name for classification purposes. Rather, products of this description are classified in accordance with their physical and chemical properties, regardless of the name by which a particular product may be called. Under the description "sugar, sirups, and molasses, derived from sugar cane or sugar beets, principally of crystalline structure or in dry amorphous form" (TSUS item 155.20) are classified all the solid sugars of commerce, including raw and refined sugar.

Pursuant to Presidential Proclamation No. 4539, issued November 11, 1977, the column 1 rate of duty for TSUS item 155.20 was established at 2.98125 cents per pound less 0.0421875 cent per pound for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625 cents per pound. By general headnote 4(b) of the TSUS, the column 2 rate was established at the same level. The rate formula provides a duty of 2.8125 cents per pound for 96-degree raw sugar. 1/ All countries exporting sugar to the United States are subject to these rates of duty except for certain countries eligible for duty-free treatment under the Generalized System of Preferences.

Sugars, sirups, and molasses, derived from sugar cane or sugar beets, not principally of crystalline structure and not in dry amorphous form, containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6 percent or less by weight of the total soluble solids, are classified for tariff purposes in TSUS item 155.30. Articles imported under this description are primarily liquid sugar and invert sugar sirups. Articles classified under TSUS item 155.30 are dutiable on total sugars at the rate per pound applicable under item 155.20 to sugar testing 100 degrees. All designated beneficiaries for the Generalized System of Preferences are eligible for duty-free treatment on imports under TSUS item 155.30.

Import quotas

On November 16, 1974, when the President, by Proclamation No. 4334, established rates of duty for sugar provided for in TSUS item 155.20 and 155.30 pursuant to headnote 2, part 10A, schedule 1, of the TSUS, the President also established a global quota of 7 million tons, raw value, on such sugar imports. At that time, it was announced that the quota was not intended to be restrictive on normal import levels. On November 30, 1978, the President signed Proclamation No. 4610 which lowered the global quota to 6.9 million tons, raw value. In addition, the quota was allocated with 210,987 tons, raw value, for the products of the Taiwan, and 150,544 tons, raw value, for the products of all countries other than members of the International Sugar Agreement, 1977, for the calendar years 1978 and 1979. The 1978 and

1/ The term "degree" means sugar degree as determined by polarscopic test.

1979 quota for Taiwan has not yet been filled, but at the time of the Proclamation, the quota for nonmembers of the International Sugar Agreement had already been overfilled, which in effect made the quota restriction an embargo on further imports from such countries (including EC countries) through December 31, 1979. The European Community (including Belgium, France, and West Germany) has not become a member of the International Sugar Agreement, although it has attempted to negotiate membership status through "equivalent disciplines" to export quotas as required by the agreement. These negotiations have not been successful, hence, there will be no further imports from the countries under investigation until at least January of 1980, and if the International Sugar agreement, 1977, is ratified by the United States, such imports will be subject to severe limitations thereafter. Most of the quota for nonmembers is based upon the import levels of Colombia, which has since applied for membership in the International Sugar agreement. Should Colombia become a member, the United States would be obliged by the terms of the agreement to reduce the quota for remaining nonmembers or the agreement (other than Taiwan) to a very low level based on historical import levels.

Section 22 fees

At the time the antidumping petition was filed, Presidential Proclamation No. 4547, issued January 20, 1978, pursuant to section 22 of the Agricultural Adjustment Act, as amended, provided for additional import fees for certain sugars provided for in TSUS items 155.20 and 155.30. For sugar provided for in item 155.20, to be further refined or improved in quality, the additional fee under TSUS item 956.15 was 2.70 cents per pound. For sugar in item 155.20, not to be further refined or improved in quality and for sugar in item 155.30, the additional fee under TSUS items 956.05 and 957.15, respectively, was 3.22 cents per pound. None of the additional fees could exceed 50 percent ad valorem. An exception was provided for sugar entered for the production of polyhydric alcohols (i.e., manitol and sorbitol) not for use in human consumption. Designated beneficiaries for the Generalized System of Preferences are not eligible for duty-free treatment with regard to section 22 fees. These fees were established under emergency powers of the President pursuant to section 22, pending the receipt by the President of the U.S. International Trade Commission's report to the President (issued April 17, 1978) and his action thereupon.

On December 28, 1978, the President signed Proclamation No. 4631 in response to the Commission's section 22 report, establishing a system of variable tariffs on sugar to be managed by the Secretary of Agriculture. The system provides that the import fees are to be adjusted quarterly on the basis of world prices of sugar for the 20 consecutive market days preceding the 20th day of the month preceding each calendar quarter, and automatically whenever the world price of sugar plus duties, fees, and attributed c.i.f. costs varies from a price objective of 15 cents per pound by more than 1 cent per pound. On the basis of this system, the Secretary of Agriculture established fees for the first quarter of 1979 of 3.35 cents per pound for TSUS item 956.15, and 3.67 cents per pound for TSUS items 956.05 and 957.15. For the second quarter of 1979, fees have been adjusted downward to 2.76 cents per pound for TSUS item 956.15 and 3.28 cents per pound for TSUS items 956.05 and 957.15. The basis world price that was the basis for duties in the first quarter of 1979 was 7.94 cents per pound; for the second quarter of 1979 the basis price was 8.53 cents per pound. On May 1, 1979, however, world prices had fallen to about 7.77 cents per pound.

Countervailing duties

On July 30, 1978, the U.S. Customs Service announced a final countervailing duty determination that sugar provided for in items 155.20 and 155.30 which benefited from bounties or grants was being entered into the United States. Such sugar imported directly or indirectly from the European Community (EC), if entered or withdrawn from warehouse for consumption on or after July 31, 1978, is subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. The net amount of such bounties or grants was ascertained and estimated to be 10.8 cents per pound of sugar. Under the Common Agricultural Policy (CAP) of the European Community, there is a substantial surplus of sugar for which such bounties and grants apply. Such countervailing duties would apply to sugar imported from Belgium, France, and West Germany except to the extent that the importer could show that such imports benefit from bounties or grants smaller than the 10.8 cents per pound estimated by the U.S. Customs Service. However, there may also be substantial quantities of European Community sugar exports to which bounties or grants do not apply, which could be imported without the imposition of countervailing duties.

Most, but not all, of the sugar produced in the European Community is subsidized under the EC's Common Agricultural Policy. The CAP sets up three accounting categories or designations for all of the sugar produced in the EC. The first two categories, labled "A" and "B," are quota amounts and are subsidized, and the third, labled "C," is excess production over the quotas and is not subsidized. The "A," "B," and "C" sugar is completely fungible, and the respective designations are for accounting purposes only.

The "A" sugar quota equals about 105 percent of annual EC human sugar consumption, and the "B" quota equals 27 percent of the "A" quota. Thus, the "A" and "B" quotas, both of which are subsidized, equal about 132 percent of annual EC sugar consumption. All sugar produced in excess of the "A" and "B" quotas is "C" sugar. "C" sugar is generally about 10 percent of EC sugar production and has been estimated for the 1977 crop year at about 200,000 to 300,000 short tons. Under the CAP, a marketing year runs from October 1 to the following September 30. The harvest of the sugar beets begins in early October and is generally complete sometime in February. The exact amount of excess "C" sugar is not known until October each year. "A" and "B" sugar may be sold domestically or exported. However, all "C" sugar must be exported by December 31 of the given year, or the producer may lose part of his subsidy. Most, if not all, of the "C" sugar is expected to come from Belgium, France, and West Germany, which are the only surplus sugar-producing countries in the EC.

The subsidies are paid to the producers after the end of the marketing year and are based, as noted above, on annual EC human sugar consumption. Because the subsidies have been quite profitable, producers find it advantageous to produce enough sugar to insure the filling of the "A" and "B" quota allocations, if possible. In recent years, EC producers have produced more than enough sugar to fill their "A" and "B" quota allocations and, hence, there has been excess "C" sugar.

Discussions with officials at the Treasury Department have generated information that "C" sugar would not be countervailable. Thus, the existence of the countervailing duty on European sugar would not appear to be a deterrant to the importation of "C" sugar into the United States.

In view of the fact that the present U.S. sugar duties are about 5.5 cents per pound and the U.S. domestic price of sugar is about 14.00 cents per pound, it is unlikely that any EC sugar subject to a countervailing duty of 10.8 cents per pound and a tariff of 5.5 cents per pound could be sold in the United States. Under such circumstances, apparently only "C" sugar could enter the United States at commercially competitive prices. Hence, only "C" sugar could be sold at less than fair value.

Nature and Extent of LTFV Sales

In investigating whether there were export sales at LTFV from Belgium, France, and West Germany, the Department of the Treasury requested pricing information concerning the purchase price of U.S. imports and the prices of home-market sales during the 6-month period March 1-August 31, 1978. No substantive responses were received from any of the involved exporters. Therefore, Treasury was obliged to use such information as was available. For the purposes of these determinations, purchase prices were calculated on the basis of the prices to United States purchasers after deducting c.i.f. costs and duties, when any of these charges were included in the selling prices. This information was obtained from Customs entry documents. Home-market prices were calculated based upon the European Community 1977/78 raw sugar intervention price per pound as established under the Common Agricultural Policy, and as published in the official Journal of European Communities. This price is the floor below which the price of sugar sold within the Community is not permitted to fall. Comparisons were made on all sales from the three countries during the period under investigation, and in comparing prices for these sales Treasury found that the purchase prices were less than the home-market prices in all sales examined. The following margins were found for each country.

LTFV margins, as found by Treasury and calculated by the U.S. International Trade Commission

(In percent)

Country	As found by Treasury 1/		As calculated by the Commission 2/	
	Range of margins	Weighted average margin	Range of margins	Weighted average margin
Belgium	62-131	103	47-56	51
France	88-128	102	38-57	51
West Germany	121	121	55	55

1/ Calculated as the difference between the home-market price and the purchase price divided by the purchase price.
2/ Calculated as the difference between the home-market price and the purchase price divided by the home-market price.

* * * * * * *

Any antidumping duties assessed in the absence of changes in the home market export prices on sales to the United States by the three countries would be less than the 10.8 cents per pound countervailing duty if the countervailing duty were applicable to any future import shipments. However, Treasury estimates of home-market values are considerably lower than the 18.54 cents per pound estimated by the Commission staff effective at the time of 1978 imports from the EC. The current home-market values in the EC are even higher (20.69 cents per pound), hence, duty assessment for antidumping duties would probably be higher than the countervailing duty. Withholding of appraisement of entries of sugar from Belgium, France, and West Germany became effective on February 12, 1979 and was scheduled to extend for 3 months, or until May 12, 1979. In the event of an affirmative finding by the Commission, only imports entered on or after the effective date of the withholding of appraisement will be subject to the imposition of antidumping duties.

The Domestic Industry

About 55 percent of the sugar consumed annually in the United States comes from domestic sources (30 percent from sugar beets and 25 percent from sugar cane) and 45 percent from foreign sources (virtually all cane). In recent years the Florida sugar industry has accounted for about 14 percent of total U.S. sugar production (tables 1 and 2 in app. F).

U.S. sugar beet growers and beet sugar processors

Sugar beets are currently produced in 18 States. The number of farms producing sugar beets in 1977/78 most likely increased from the 12,000 farms producing sugar beets in 1973/74 (the last year for which official statistics are available). Sugar beets are grown by farmers under contract to beet sugar processors. The contracts generally call for growers to deliver beets from a given acreage to processors and for processors to reimburse the growers on a basis which includes a percentage of the return processors receive from the sale of the refined sugar. In 1976 there were 58 beet sugar factories, owned by 13 companies or cooperatives scattered throughout the sugar-beet-producing regions in the United States. The 58 factories had a daily processing capacity of about 200,000 tons of sugar beets.

Hawaiian sugar cane growers and millers

Hawaii is noted for having the highest yields of sugar cane per acre in the world. There were more than 500 farms in Hawaii, harvesting 97,000 acres of sugar cane in 1977. About half the acreage is irrigated, and it produces two-thirds of the sugar cane harvested. Five large corporations, often called the five factors, 1/ account for more than 95 percent of the acreage and production of Hawaiian sugar cane through their subsidiary producing and/or milling companies.

More than 95 percent of the raw sugar produced in Hawaii is refined on the U.S. mainland by the California and Hawaiian Sugar Co. (C&H), a cooperative agricultural marketing association. The refining company is owned by 16 Hawaiian raw sugar producing and/or milling companies, but also serves as the refiner and marketing agency for independent nonmember sugar cane farmers in Hawaii.

Mainland sugar cane growers and millers

Louisiana, Florida, and Texas are the principal mainland States producing sugar cane. The mainland cane-milling industry takes sugar cane from growers and processes it into raw sugar. Because it rapidly becomes more difficult to recover sucrose from sugar cane once it has been cut, the cane mills are located close to the producing areas. In 1975/76, the 40 mainland cane-milling companies produced about 1.8 million short tons of raw sugar and several byproducts, such as molasses and bagasse.

Louisiana.--Sugar cane in Louisiana is grown on the flood plains of the bayous (mostly streams in the Mississippi Delta). The acreage that can be devoted to sugar cane in Louisiana is limited and any expansion of production will probably be accomplished by increasing yields. The number of farms producing cane has probably declined from 1,290 in 1973/74 (the last year for

1/ The five factors are C. Brewer & Co., Ltd.; Castle & Cooke, Inc.; Amfac, Inc.; Alexander & Baldwin, Inc.; and Theodore H. Davies & Co., Inc.

which official statistics are available). More than half of the Louisiana crop is grown by owners of processing mills. Thirty one companies operated 37 sugar cane mills in 1975-76, with a total daily processing capacity of approximately 135,600 short tons of sugar cane.

Florida.--In Florida, sugar cane production has been increasing. In 1973/74, there were 136 farms producing sugar cane (the last year for which official statistics are available), but the bulk of production comes from a few large farms. The land devoted to sugar cane in Florida is concentrated in the vicinity of Lake Okeechobee, where the "soil" consists of organic materials deposited over the centuries. As sugar cane is grown on this high-yielding base, the level of organic material drops because of exposure to the air. Eventually, when the organic material runs out, sugar cane production methods will have to be revised. Most of the sugar cane in Florida is produced by owners of cane sugar mills, of which there were eight in 1975/76. These mills have a daily processing capacity of 82,000 short tons of sugar cane. One company in Florida that is both a processor and grower, the United States Sugar Corporation, is the largest grower of sugar cane in the United States.

Texas.--The Texas sugar cane industry began production in southern Texas in 1973/74 and has been growing since then. In 1975/76, one sugar cane mill, operated as a cooperative owned by the growers, had a daily capacity of 8,500 short tons of sugar cane.

Puerto Rico sugar cane growers and millers

In the last decade, there has been a severe decline in the number of farms producing sugar cane and in sugar cane production in Puerto Rico. The number of farms declined from 11,608 in 1963/64 to 2,551 in 1973/74 (the last year for which official statistics are available). The bulk of the sugar cane acreage and most of the sugar-cane-processing mills are owned, leased, or contracted for by the Sugar Corporation of Puerto Rico, a quasi-governmental corporation. Twelve sugar cane mills in Puerto Rico had a daily processing capacity of about 55,000 short tons of sugar cane in 1975/76.

Cane sugar refiners

There are 22 cane sugar refineries in the continental United States, located mainly on the east and gulf coasts. The 22 cane sugar refineries are operated by 12 companies and 1 cooperative. Traditionally, cane sugar refiners provided about 70 percent of the sugar consumed in the mainland U.S. market. In 1977, U.S. cane sugar refiners produced 7.55 million short tons, raw value, of sugar. Cane sugar refiners are the principal users of imports of raw sugar. They obtained about 61 percent of their raw sugar supplies from foreign sources in 1975.

U.S. importers and sugar operators

Besides the cane sugar refiners, which contract for the bulk of U.S. sugar imports, other importers and sugar operators are involved in the importation of raw, semirefined, or refined sugar. They import sugar and arrange for the sale and delivery of the commodity to buyers (mostly cane sugar refiners). The need for the importers' and sugar operators' services arises because producers cannot always find refiners willing to buy at the times and locations that producers have sugar to sell and vice-versa. The importers' and sugar operators' services consist of financing the transaction, chartering the transportation, arranging for loading, import and export documentation, delivery to the buyers' docks, and taking the risk of price changes while these procedures are being undertaken. The operators also engage in significant trading in sugar futures markets, and may operate in the world sugar trade outside the U.S. market. In 1974, there were at least 16 sugar operators dealing in raw sugar and an unknown number of importers dealing in refined sugar for direct consumption sales.

Foreign Producers

The European Community is the world's leading producer, accounting for more than one-tenth of total world production of sugar (table 3). The U.S.S.R., Brazil, Cuba, India, and the United States are also important producers. The European Community, the U.S.S.R., and the United States consume most of their own production, while Brazil, Cuba, and India export significant portions of their output (table 4).

In most years, world production of sugar exceeds world consumption of sugar, which is why world sugar prices are generally low (table 5). However, when world consumption exceeds world production for any prolonged period, prices generally rise quickly. Since 1974, world production has been in excess of world consumption, by increasing amounts in each year up until 1977, and was in excess by 3.3 million tons in 1978. The result has been the current low level of world sugar prices.

In 1978 the leading suppliers of U.S. sugar imports (TSUS items 155.20 and 155.30) were the Philippines, the Dominican Republic, Brazil, Argentina, Peru, Australia, and Guatemala. Although 46 countries supplied sugar to the United States in 1978, the principal suppliers listed above accounted for more than 63 percent of the total. Belgium, France, and West Germany were minor suppliers and accounted for 0.54, 0.91, and 0.35 percent, respectively, of U.S. sugar imports in 1978 (table 6).

The European Community's Common Agricultural Policy for Sugar

The European Community's Common Agricultural Policy for sugar has a long history. Before the admission of Denmark, Ireland, and the United Kingdom to the European Community, the original six members were generally net exporters of sugar to the world, and variable levies were used to preclude any substantial sugar imports. With the admission of Denmark, Ireland, and the United Kingdom to the European Community, sugar producers of the original six members were hopeful that the United Kingdom, which had long been a net importer of sugar under the Commonwealth Sugar Agreement, would become a market for their surplus production. However, in the negotiations for accession of the United Kingdom to the EC, it was necessary to deal with the United Kingdom's former Commonwealth suppliers; the result was the Lome' Convention, which provided a variety of trade preferences to associated developing countries. One of the most important preferences was quotas for sugar imports into the European Community at guaranteed prices. Hence, the expanded European Community was to become an importer of sugar but still have substantial surpluses of sugar that had to be exported with the benefit of subsidies.

Production controls

The production control system of the CAP for sugar designated three categories of internal EC sugar production: "A," "B," and "C" quota production. The "A" or basic quota aims to meet internal EC consumption, but since "A" quota levels are set by political negotiations, they have usually been fixed at levels greater than consumption. "A" quotas are allocated to each member state. Each member state, in turn, allocates specified shares of its total national quota to domestic sugar refiners and processors on the basis of their past production levels. Refiners and processors are guaranteed a basic intervention price for their share of "A" quota production. Growers are guaranteed a minimum beet price as well.

"B" quota sugar production is fixed prior to each market year by political negotiation among EC member states. The "B" quota level is determined as a percentage of the basic quota ("A" quota). In 1975, when sugar was in short supply, the "B" quota was equivalent to 45 percent of the "A" quota, but for 1976/77 and 1977/78 this was reduced to 35 percent. For 1978/79 the "B" quota was reduced to 27.5 percent of the "A" quota, and this percentage could be reduced further still in upcoming negotiations. "B" quota sugar is guaranteed the same intervention price as "A" quota production, but a production levy of up to 30 percent of the intervention price is assessed on a manufacturer's "B" quota production. The cost of this levy is shared by growers and manufacturers at a predetermined ratio. The production levy is intended to help meet the cost of marketing "B" quota sugar. If the disposal costs exceed the revenue from the levy, the CAP treasury must absorb the additional costs. Together, the "A" quota and "B" quota are referred to as the "maximum quota."

"C" quota production designates any sugar produced in a factory in excess of its own maximum production quotas. "C" quota production is undertaken at the producers' risk and has no price guarantees. Normally "C" quota sugar must be exported from the EC, but no export restrictions are made for such sugar. The only members with significant production of "C" quota sugar are Belgium, France, and West Germany. In rare instances when sugar has been in short supply in the EC, export levies have been used to hold such sugar in the internal market. This occurred in 1974/75 when "C" quota sugar was prevented from entering the higher priced world market.

Price controls

The CAP sugar production quota system is based on a system of guaranteed prices. The "basic intervention price" is the price at which the member states' National Intervention Boards will purchase maximum quota ("A" and "B") sugar if no other buyer can be found at the price. The basic intervention price represents a floor price for sugar in the EC.

Intervention prices are determined for both raw and refined sugar and for different areas in the European Community. The prices are quoted in "units of account per kilogram" (u.a./kg.). Units of account are "Green currency" and it is somewhat difficult to establish conversion rates for units of account. However, estimates were made for the intervention price for France, Belgium, and West Germany, for raw beet sugar. In 1976/77 the intervention price was 28.15 u.a./kg., or 17.35 cents per pound. In 1977/78 the intervention price was 27.25 u.a./kg., or an average of 17.30 cents per pound for the whole year. Because of exchange-rate changes, the 1977/78 intervention price amounted to about 18.54 cents per pound for the period when the sugar from Belgium, France, and West Germany involved in the present antidumping investigation was exported. In 1978/79 the intervention price was 27.81 u.a./kg., or about 20.69 cents per pound, using the latest exchange rates available. There have been indications that there may be no increase in intervention prices for 1979/80, although because of exchange-rate movements, the price in cents per pound will probably be higher. In addition to the basic intervention price, a "minimum beet price" is set which is the lowest price a manufacturer may offer a farmer for "A" quota beets of a standard quality.

The EC also fixes a "target price" which is set at 5 percent above the intervention price. The "target price" supposedly represents the market price which would prevail if supply and demand within the EC were in balance. The "threshold price" is the minimum price at which nonpreferential sugar may be imported into the EC. The threshold price is derived by adding to the "target price" the cost of transporting sugar from the greatest surplus producing area to the greatest deficit area within the EC (from Laon, France to Palermo, Sicily). The threshold price is the basis for the variable levy applied to sugar imports and coincides with the maximum price which should be obtainable for sugar in the internal market. The current threshold price is 25.63 cents per pound. The difference between the intervention or floor price and the threshold price for sugar in the EC in 1978/79 is, therefore, about 4.94 cents per pound for raw sugar.

Import controls

The EC price and quota systems are protected from the world market by a system of variable levies. Import levies take effect when the world price of sugar is below the target or threshold price, and are calculated by deducting the "most favorable" world market offer from the threshold price. The levies are common to all EC members and are adjusted to take into account monetary fluctuations among member currencies. When world prices exceed the threshold price, export levies and/or import subsidies are put into effect.

However, there are imports into the EC not affected by the variable levies. Upon entry of the United Kingdom into the EC, a committment was made to import fixed quantities of sugar from certain less developed countries under the Lome' Convention. These countries are generally referred to as the African, Caribbean, and Pacific (ACP) countries. All the former members of the Commonwealth Sugar Agreement became ACP countries. Additional agreements provided similar status for India and some countries associated with France.

The EC is committed to import 1.3 million metric tons of sugar annually from the ACP countries, and the ACP countries are committed to shipping that amount to the EC. The ACP countries are guaranteed a price, set annually by the EC with consultation with ACP countries. The ACP guaranteed prices are linked to internal EC prices and are generally set at about the level of the basic intervention price.

High-fructose sirup

The European Community, like the United States, has its sugar policy problems complicated by the introduction of high-fructose sirups (called "isoglucose sirup" in Europe). When introduced in Europe, high-fructose sirups immediately began to capture part of the overall "sweetener" market from sugar. The CAP reacted to the problem by placing a production levy on high-fructose sirup production similar to that on "B" quota sugar. However, a Dutch producer took the imposition of the levy to the European Court of Justice, which ruled that the imposition of the B-quota-type levy on 100 percent of the production of high-fructose sirups while such production levies applied to only "B" quota production of sugar represented illegal discrimination against the manufacturers of high-fructose sirup. Currently, efforts are underway to revise the CAP policy for high-fructose sirup, and it is believed likely that a quota system for high-fructose production similar to that for sugar will be established, and levies will be charged only on the over-quota production of high-fructose sirup.

The European Community's "sugar mountain"

During the period of short sugar supplies in 1974/75, intervention prices were raised rapidly, and efforts were aimed at encouraging production under the Common Agricultural Policy. The entry of the United Kingdom and the accompanying Lome' Convention imports, along with this artificially stimulated production quickly resulted in mounting sugar surpluses. The introduction of high-fructose sirup added to this problem by displacing more sugar from anticipated internal consumption. Although some of these problems could probably have been anticipated, there were heavy political pressures to keep raising the prices for sugar. France, in particular, has many small sugar beet producers which benefit from the CAP for sugar, and these producers are an important political force in France. From 1974/75 to 1977/78 the intervention price for sugar rose about 6 percent per year. Not until regulations were written for the 1978/79 year was this slowed to only a 2-percent rise. The result of this policy has been a "mountain of sugar" which the EC has had to dispose of in recent years. The excess of EC sugar production over EC sugar consumption was more than 3 million metric tons in each year since 1976/77, coinciding with a large world surplus of sugar, making disposal of the "sugar mountain" especially difficult.

Disposal of surplus sugar

Removal of surpluses under the CAP for sugar can take place through three different channels: intervention, compulsory stocks, or export restitution.

Intervention.--When no other buyer can be found at or above the intervention price, a manufacturer or trader may sell sugar to the local intervention board. The sugar obtained by the intervention boards is then resold at or above the intervention prices on the authorization of the European Commission. Very little of the sugar surplus has been absorbed through direct intervention in recent years. In 1976/77 about 150,000 metric tons were absorbed by direct intervention, and in 1977/78 only 3,000 tons were taken off the market this way. The EC tends to avoid direct intervention as a means of drawing off internal surpluses.

Export restitution.--Direct intervention is avoided by the alternative use of export promotion through subsidization. During 1977/78 the EC subsidized the export of an average of 50,000 metric tons per week at rates approximating 14 cents per pound. Most export subsidization is granted via tenders submitted by sugar traders. An invitation to tender is published several weeks prior to bidding. Traders wishing to export submit their names, the quantity to be exported, and the amount of subsidy desired to member State authorities who send the information forward (without the names) to the European Commission. The European Commission examines the tenders and fixes a maximum level of subsidy to be granted, taking into account world market conditions and the level of exports required to reduce internal surpluses (and avoid direct intervention). When the maximum amount of subsidy is set, each tenderer who has bid at or below the maximum subsidy receives his requested level of subsidy. The subsidy program is financed through the production levy on "B" quota sugar, but since the levy cannot exceed 30 percent of the intervention price, the extremely low prices for sugar in the world market meant that the EC has had to absorb significant costs for sugar export subsidies not covered by levy receipts. For 1977/78 this cost totaled $956 million.

Compulsory stocks.--The CAP sugar regime also includes a mechanism for compulsory stocks to be held by manufacturers, equal to 10 percent of the basic production quota. At current "A" quota levels, this compulsory carryover stock amounts to about 1 million metric tons of refined sugar.

The International Sugar Agreement

Although the European Community participated in the negotiations for the International Sugar Agreement, 1977, the EC did not become a member because of dissatisfaction with the export quota which would have been assigned to it. The export quota would have been much too small to deal with the sugar surplus in the EC. The EC has continued negotiations in an effort to find an "equivalent discipline" to export quotas which would be satisfactory to the members of the International Sugar Agreement, but has had little success with this approach. Because of the restrictions on imports from nonmembers required for importing members of the agreement, the markets in which the EC can dispose of its sugar surplus have been limited to nonmember countries.

GATT complaint on European sugar subsidies

The CAP sugar regime has been further complicated by complaints from Australia and Brazil that the EC sugar subsidy is not consistent with the obligations of member States of the European Community under the GATT. It was charged that the subsidies resulted in Community exporters having more than an equitable share of the world export trade in sugar in terms of GATT Article XVI. Despite certain procedural complaints by the EC, the complaint has already been put before a panel under GATT Article XXIII. This case is one of the most significant cases pursued under the old GATT rules on subsidies. Possible new rules on subsidies have been negotiated in the multilateral trade negotiations.

Regional Injury Considerations

The Florida Sugar Marketing and Terminal Association, Inc., contended that the concentration of imports of LTFV sugar from Belgium, France, and West Germany, together with the concentration of sales of Florida sugar in the Southeastern region of the United States, warrant a regional approach to the question of injury in this investigation. During 1977/78 the 879,000 short tons of raw sugar produced in the Southeastern region was all produced in Florida (table 7). Of that total, 101,000 tons (11.5 percent) was sold by the Florida producers to purchasers outside the Southeastern region; 566,000 tons (64.4 percent) was sold to purchasers for refining within the region; and 212,000 tons (24.1 percent) was placed under price-support loans.

More than a 78 percent of U.S. imports of EC sugar was imported into the Southeastern region, all at Savannah, Ga., where Savannah Foods and Industries, Inc., the Florida sugar producers' largest customer, has its largest refinery. However, EC sugar imports amounted to 66,000 tons, or only 31 percent of the total 216,000 tons imported at Savannah, Ga., during 1978, although at the time of importation, EC sugar accounted for the bulk of imports at Savannah. The remaining two-thirds of imports into Savannah were from sources that sell raw sugar to refineries in many other regions throughout the United States. Imports from all sources accounted for 27.6 percent of the sugar refined in the region in 1977/78, and LTFV imports from Belgium, France, and West Germany accounted for 8.4 percent of the sugar refined in the region. Imports from all sources were equivalent to 24.6 percent of regional production in 1977/78, and LTFV imports were equivalent to 7.5 percent of regional production.

The petitioner argued that the 216,000 tons of imports into Savannah displaced 212,000 tons of Florida sugar which normally would have been marketed to the Savannah refinery, but instead were placed in stocks as collateral for price-support loans.

Capacity Utilization

Data on capacity utilization for the U.S. sugar industry are not available. In recent years there has been no significant expansion in sugar processing facilities, and, in fact, there have been several closings of processing facilities. The availability of processing facilities is the principal limitation on the capacity to produce sugar crops.

For the Florida sugar industry processing facilities were expanding until 1975/76. Since then, one small cane mill has closed. However, the currently available processing facilities would probably be adequate to handle up to 20 percent more crop than is currently being produced. Acreage harvested in Florida increased in conjunction with increasing processing capacity until 1975/76. For 1976/77 and 1977/78 there were slight reductions in acreage harvested, largely because of adverse weather conditions. In 1978/79 it is estimated that acreage harvested will increase slightly because of more favorable weather and because of an expansion of acreage by United States Sugar Corporation. During 1976/77 and 1977/78, United States Sugar Corporation had failed to produce enough sugar to fulfill its long-term supply contracts with Savannah Foods and Industries, Inc. Since 1977/78, most of the Florida sugar industry's investment in expanding its capacity has been made in building storage facilities in order to increase the storage capacity needed for placing sugar under price-support loans.

The Southeastern region of the United States has three refineries for raw cane sugar. While their refining capacity is not known, production in the region has outstripped demand there, and increased quantities of sugar produced in Florida have been marketed outside of the region. The Florida sugar industry has made investments in facilities for transporting sugar by deep-water barge in order to expand such marketing. The capacity to ship sugar by deep-water barge rather than by rail has made Northeastern refineries available as potential markets for excess Florida sugar.

Financial Performance of Domestic Producers

The petitioner submitted data showing that for the last 3 crop years, 1975/76 through 1977/78, the value of Florida sugar production has been less than the cost of production. 1/ For 1975/76 the loss was 0.96 cent per pound. For 1976/77 the loss increased to 4.75 cents per pound, and for 1977/78 the petitioner estimated the loss would be approximately 2.29 cents per pound.

Selected data indicative of the aggregate financial performance of U.S. sugar producers on their sugar operations in 1972-75, as summarized in tables

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1/ Cost-of-production studies were done in 1975 and have been projected through current years by indexing.

8 and 9, show an increase in total sales and net profit before income taxes from 1972 to 1974. Net sales and profit for most segments of the sugar industry declined in 1975. However, the data for Florida sugar cane growers and sugar cane millers show increasing net sales and profit from 1972 through 1975.

The staff requested additional data on profit and loss from the petitioner, and the Commission was provided data from four sugar cane millers which mill about 72 percent of the Florida sugar cane crop. These firms show a consistent pattern of high returns in 1975/76, low returns or losses in 1976/77, and recovery in 1977/78, based largely on the availability of price-support programs in that year. Data for the individual firms are discussed below.

United States Sugar Corporation

The United States Sugar Corporation accounts for about 30 percent of Florida raw sugar production, and both grows and mills sugar cane. Total company net sales and revenues for 1978 were up 2.4 percent from 1977 (accounting year ending October 31) (table 10). Net sales of sugar and sugar byproducts, including price-support payments, for 1978 were up 1.5 percent from 1977. Exclusive of price-support payments, 1978 sales of sugar and sugar byproducts were down 10.1 percent in 1978.

Inclusive of price-support payments, 1978 total company net income (after income tax) was up 25.1 percent from 1977. Exclusive of price-support payments, 1978 total company net income was down 44.4 percent from 1977. Gross profit, inclusive of price-support payments, from sales of sugar and sugar byproducts was 3.4 percent higher in 1978 than in 1977. Exclusive of price-support payments, such profit declined by 50 percent in 1978. It should be noted that price-support payments for United States Sugar Corporation represent a windfall gain, since the firm was eligible because of its long-term contract to supply sugar to Savannah Foods and Industries, Inc., but would have supplied the sugar whether or not price-support payments were available.

For current operations, United States Sugar Corporation is continuing its sales of sugar under long-term contract. Since the price-support payments program has been superceded by the price-support loan program, there will be little, if any, contributions to earnings from price-support programs--hence, profitability in the current year with continued low-market prices for sugar is not expected to be as high as for the 1978 accounting year.

Gulf & Western--Okeelanta Sugar Division

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Sugar Cane Growers Cooperative of Florida

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Atlantic Sugar Association

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U.S. Producers' Inventories

Inventories of sugar held by the primary distributors of sugar in the continental United States are shown in table 14. Monthend inventories for all distributors were at record high levels all through 1978 except for yearend inventories, which for 1978 were lower than yearend inventories for 1977. The reduction in yearend inventories was largely because of the high level of inventories which resulted from the surge of imports at the end of 1977, in advance of the imposition of section 22 fees. Yearend inventories in

1977 were 4,349,000 tons, compared with 3,734,000 tons in 1978, of which 1,561,000 tons was held by beet processors and 804,000 tons was held by mainland cane mills. Of these amounts, 135,000 tons held by beet sugar processors and 336,000 tons held by mainland cane millers were 1977 crop sugar held as collateral for price-support loans, and 171,000 tons of mainland cane mill collateral had already been forfeited to the Commodity Credit Corporation.

Table 15 shows that inventories as a share of production increased for 1972-77 but declined slightly in 1978. Yearend inventories for cane mills were at record levels for 1978, although a substantial portion of these inventories were held as collateral for price-support loans. Florida cane mill yearend inventories for 1977 were 233,531 tons, raw value, and increased for 1978 to 436,652 tons, raw value, not counting an additional 120,648 tons which had already been forfeited under price-support loan to the Commodity Credit Corporation.

U.S. Consumption and Market Penetration of Imports

During 1960-73, annual U.S. consumption of sugar increased gradually from 9.5 million to 11.8 million short tons, raw value. However, the rapid increase in prices to record levels toward the end of 1974, followed by the continued high prices during much of 1975, caused total U.S. sugar consumption to fall in each of those years--to 11.5 million tons in 1974 and then sharply to 10.2 million tons in 1975. Total sugar consumption recovered in 1977 to 11.4 million tons as prices declined sharply from their 1974 peak, but declined to 11.05 million tons in 1978 (table 16). As shown in table 17, industrial users accounted for more than 60 percent of the deliveries in 1977.

U.S. imports of sugar from all sources fell from 5.6 million tons in 1971 to 5.3 million tons in 1973, rose to 5.8 million tons in 1974, but fell to 3.9 million tons in 1975, rising thereafter to 6.1 million tons in 1977. Imports in 1978 fell to 4.7 million tons. However, a significant portion of the 6.1 million tons imported in 1977--nearly 1.5 million tons--was imported in December of that year to fulfill contracts for delivery in 1978. This was to take advantage of exemptions for the duty increases pursuant to section 22, proclaimed in November of 1977.

From 1971 to 1975 the ratio of imports to domestic consumption decreased irregularly from 48 percent to 38 percent, increased to 54 percent in 1977, and declined to 42 percent in 1978, with a resulting overall increase in the proportion of domestic sugar consumption supplied by domestic sugar producers during the period 1971-78.

Sugar imports from Belgium, France, and West Germany increased from zero in 1972 to about 1 ton in 1975, to 16,000 tons in 1976, and nearly 49,000 tons in 1977. LTFV imports from these countries in 1978 amounted to nearly 85,000 tons (table 18). As a percentage of consumption, imports of sugar from Belgium, France, and West Germany increased from 0 in 1972 to 0.43 percent in 1977 and 0.77 percent in 1978 (table 19). The 1978 ratio of imports to consumption amounted to 0.23 percent for imports from Belgium, 0.39 percent for imports from France, and 0.15 percent for imports from West Germany.

Prices

The prices of raw sugar on the world and U.S. markets increased dramatically in 1974 and then declined as abruptly as they had risen (table 20). The average price of sugar delivered in New York increased from 13 cents per pound in January 1974 to a peak of 57 cents per pound in November 1974, then fell to just below 10 cents per pound in September 1976. At that time there was a twofold tariff increase of 1.25 cents per pound and New York delivered prices remained above 10 cents per pound through October 1977. After the additional duty increase and imposition of section 22 fees announced in November 1977, the price of sugar rose gradually to 14 cents per pound in June 1978, but fell to 13.49 cents per pound in July 1978. During August-December 1978, such prices remained above 14 cents per pound, exceeding 15 cents per pound in September and October 1978. In December 1978 the New York prices amounted to 14.48 cents per pound. In January-March 1979, despite the increase in import fees, prices in New York remained below 15 cents per pound. In April-June 1979 the fees were reduced, and prices fell to slightly more than 14 cents per pound.

The best information available from the Customs Service on the price of sugar imported from Belgium, France, and West Germany is that the f.o.b., foreign port price of the imports averaged 7.70 cents per pound in 1978. This would indicate that the c.i.f., duty-paid price of the imports in Savannah, Ga., would be about 13.96 cents per pound. Data supplied by Savannah Foods & Industries, Inc., indicate that the weighted average purchase price of these imports delivered in Savannah was 13.76 cents per pound. Data supplied by the Florida Sugar Marketing and Terminal Association, Inc., indicate that the average selling price for sugar, f.o.b. Florida mills, for January-April 1978 for deliveries through July 1978 was 13.80 cents per pound, which would represent a price of 14.18 cents per pound, delivered in Savannah, when the cost of freight is added. This indicates a margin of underselling by LTFV imports of 0.42 cents per pound.

Lost Sales

The petitioner claimed that sales were lost to traditional customers in the Southeastern region. No sales were made to the Savannah refinery except pursuant to long-term contract during the period April 21, 1978-April 10, 1979, owing to the availability in the Southeastern region of low-priced imports, including approximately 66,000 tons of sugar from Belgium, France, and West Germany. The petitioner stated that all tender offers to customers since April 21, 1978, have been made at the minimum price which they can offer as a result of the terms of the price-support loans under which the sugar is stored, except for shipments of specialty sugar under contract and other shipments made outside the region by deep-sea barge. As a result of lost sales, a significant portion of the 1977 sugar crop was forfeited under the price-support loan program. Indications are that the bulk of the 1978 sugar crop is also going to be forfeited under price-support loans.

For the Florida sugar industry, about 85 percent of its 1976/77 crop was sugar sold to customers in the Southeastern region. For the 1977/78 crop, 64 percent was sold in the region, and 24 percent was put under price-support loan. Refiners in the Southeastern region received no domestic sugar other than raw sugar from Florida. The region received over 78 percent of all 1978 sugar imports from Belgium, France, and West Germany. Sugar imports from Belgium, France, and West Germany represented about 31 percent of all sugar imports to the port of Savannah in 1978.

APPENDIX A

TREASURY DEPARTMENT'S LETTER OF NOTIFICATION TO THE U.S. INTERNATIONAL TRADE COMMISSION

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

FEB 06 1979

'79 FEB 16 PM 3:45

Dear Mr. Chairman:

In accordance with section 201(a) of the Antidumping Act, 1921, as amended, you are hereby advised that sugar from France, Belgium and the Federal Republic of Germany is being, or is likely to be, sold at less than fair value within the meaning of the Act.

The United States Customs Service will make available to the International Trade Commission as promptly as possible the file on sales or likelihood of sales at less than fair value of sugar subject to this determination. This file is for the Commission's use in connection with its investigation as to whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by the reason of the importation of this merchandise into the United States.

Since some of the data in this file is regarded by the Customs Service to be of a confidential nature, it is requested that the International Trade Commission consider all information therein contained for the official use of the International Trade Commission only, and not to be disclosed to others without prior clearance with the Customs Service.

Sincerely,

Robert H. Mundheim

Robert H. Mundheim

The Honorable
Joseph O. Parker
Chairman, U.S. International
Trade Commission
Washington, D.C. 20436

Enclosure

DOCKET

#562

APPENDIX B

U.S. INTERNATIONAL TRADE COMMISSION'S NOTICE OF INVESTIGATIONS AND HEARING

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

(AA1921-198, AA1921-199, and AA1921-200)

SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

Notice of Investigations and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on February 16, 1979, that sugar from Belgium, France, and West Germany, provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Accordingly, the Commission on March 1, 1979, instituted investigations Nos. AA1921-198, AA1921-199, and AA1921-200, under section 201(a) of the act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held in Miami, Florida, on Tuesday, April 10, 1979, at 10:00 a.m., e.s.t., at a location to be announced. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C., not later than noon Thursday, April 5, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Friday, April 20, 1979.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: March 2 , 1979

APPENDIX C

U.S. INTERNATIONAL TRADE COMMISSION'S NOTICE OF TIME AND PLACE OF HEARING

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

(AA1921-198, AA1921-199, AA1921-200)
SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

NOTICE OF TIME AND PLACE OF HEARING

The public hearing in connection with the Commission investigation of Sugar from Belgium, France, and West Germany announced in the Federal Register of March 8, 1979, (44 F.R. 12777), will be held at 10:00 a.m. e.s.t. April 10, 1979, in Executive Room A of the Dupont Plaza Hotel, 300 Biscayne Boulevard Way, Miami, Florida 33131.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: March 14, 1979

APPENDIX D

STATISTICAL TABLES

Table 1.--Sugar: U.S. production, by types, crop years 1971/72 to 1978/79 1/

Type	1971/72	1972/73	1973/74	1974/75	1975/76	1976/77	1977/78	1978/79 2/
	Quantity (1,000 short tons, raw value)							
Cane sugar:								
Mainland	1,206	1,621	1,420	1,471	1,827	1,675	1,650	1,595
Offshore	1,554	1,417	1,384	1,332	1,409	1,362	1,302	1,238
Total, cane	2,760	3,038	2,804	2,803	3,236	3,037	2,952	2,833
Beet sugar	3,552	3,624	3,200	2,916	4,019	3,895	3,108	3,262
Total, cane and beet	6,312	6,662	6,004	5,719	7,255	6,932	6,060	6,095
	Value (1,000 dollars)							
Cane sugar 3/	137,998	201,639	333,061	710,094	349,622	243,703	4/	4/
Beet sugar	416,279	455,830	725,661	1,035,567	820,743	616,813	4/	4/
Total	554,277	657,469	1,058,722	1,745,661	1,170,365	860,516	4/	4/
	Unit value (per short ton, raw value)							
Cane sugar 3/	$114.43	$124.39	$234.55	$482.73	$191.36	$145.58	4/	4/
Beet sugar	117.20	125.80	226.77	355.13	204.22	158.36	4/	4/
Average	116.49	125.35	229.16	397.92	200.20	158.52	4/	4/

1/ The crop year for beet sugar begins in September in all States except California and lowland areas of Arizona, where it begins in March and April, respectively. The Louisiana crop year begins in October, that in Florida and Texas begins in November, that in Puerto Rico and Hawaii begins in January.
2/ Preliminary.
3/ Mainland cane only; does not include Hawaii or Puerto Rico.
4/ Not available.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 2.--Sugar cane: U.S. acreage harvested, yield, and production, by State, 1974/75-1978/79

Crop year 1/	Florida	Louisiana	Texas	Hawaii	Puerto Rico	Total
	Acreage harvested (1,000 acres)					
1974/75	258.4	308.0	27.7	95.8	121.6	811.6
1975/76	286.6	308.0	35.0	105.1	137.5	872.2
1976/77	286.0	291.0	27.1	99.9	123.9	827.9
1977/78	285.0	304.0	33.5	96.8	116.2	835.5
1978/79 2/	290.0	292.0	34.0	105.0	101.1	822.1
	Yield per harvested acre (short tons)					
1974/75	27.8	21.3	32.4	94.8	29.5	33.6
1975/76	35.7	21.0	35.3	90.2	25.6	35.3
1976/77	32.6	25.6	35.8	91.8	29.3	36.9
1977/78	29.8	23.9	29.2	92.9	27.3	34.6
1978/79 2/	30.4	21.2	39.0	90.5	28.0	34.6
	Production (1,000 short tons)					
1974/75	7,184	6,558	848	9,083	3,585	27,308
1975/76	10,117	6,468	1,236	9,485	3,520	30,826
1976/77	9,324	7,451	971	9,173	3,630	30,549
1977/78	8,493	7,265	978	8,994	3,177	28,907
1978/79 2/	8,873	6,200	1,052	9,500	2,835	28,460

1/ The crop year in Louisiana begins in October, that in Florida and Texas begins in November, that in Puerto Rico and Hawaii begins in January.

2/ Preliminary estimate; revisions of estimates can significantly affect trends shown.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Note: Data on acreage harvested supplied by the petitioner tended to differ from U.S. Department of Agriculture data by amounts greater than the differences in trends shown.

Table 3.--Sugar: World production, by leading producers, crop years 1972/73 to 1978/79 1/

(In thousands of short tons, raw value)

Producer	1972/73	1973/74	1974/75	1975/76	1976/77	1977/78	1978/79 2/
European Community	10,367	11,168	9,885	11,231	11,528	13,337	12,855
U.S.S.R	8,982	10,547	8,521	8,488	8,102	9,728	9,921
Brazil	6,793	7,671	8,157	6,834	8,267	9,480	8,466
India	5,039	5,455	6,387	6,023	6,661	8,510	7,716
Cuba	5,787	6,393	6,945	6,834	6,724	7,716	7,165
United States	6,665	5,928	5,792	7,204	6,872	6,077	6,178
Mexico	3,052	3,092	2,972	2,974	2,973	3,340	3,527
Australia	3,164	2,857	3,226	3,294	3,753	3,662	3,307
People's Republic of China	2,007	2,899	2,646	2,811	2,866	3,274	3,307
Philippines	2,672	2,913	2,718	3,169	3,031	2,642	2,375
South Africa	2,111	1,908	2,076	1,986	2,388	2,437	2,339
Thailand	715	1,025	1,168	1,809	2,438	1,746	1,984
Poland	2,016	2,003	1,716	2,050	1,985	2,040	1,974
Argentina	1,425	1,819	1,689	1,487	1,755	1,831	1,520
Turkey	894	918	919	1,087	1,416	1,193	1,433
Dominican Republic	1,259	1,316	1,254	1,377	1,347	1,300	1,400
Spain	917	886	659	1,030	1,623	1,397	1,392
Indonesia	981	1,047	1,102	1,157	1,218	1,102	1,323
Colombia	897	937	1,001	1,064	972	1,010	1,086
Czechoslovakia	859	893	937	827	755	992	992
Taiwan	860	983	828	901	1,238	847	893
Pakistan	518	701	614	697	818	944	882
Peru	1,014	1,124	1,091	1,054	1,037	937	882
Yugoslavia	471	533	611	539	779	864	863
Japan	716	720	527	519	623	705	774
East Germany	794	777	772	716	661	862	772
Egypt	650	716	595	683	730	699	772
Mauritius	756	768	767	547	806	777	766
Iran	689	728	711	786	821	756	753
Romania	636	698	618	617	882	671	672
Guatemala	298	358	423	583	570	452	500
Venezuela	571	580	584	509	488	429	485
Other producers	7,976	8,361	8,752	9,378	9,677	9,726	10,120
World total	82,551	88,722	86,663	90,265	95,804	101,483	99,394

1/ Crop years for most countries are on a September/August basis.
2/ Preliminary.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 4.--Sugar: World consumption, by leading consumers, crop years 1971/72 to 1975/76 1/

(In thousands of short tons, raw value)

Consumer	1971/72	1972/73	1973/74	1974/75	1975/76 2/
U.S.S.R	11,133	12,306	12,401	12,456	12,566
European Community	11,737	11,988	12,496	11,598	11,277
United States	12,015	12,323	11,933	9,917	10,803
Brazil	4,299	4,480	4,521	5,181	5,622
India	4,903	4,814	5,299	5,346	4,911
People's Republic of China	2,701	2,687	3,291	3,307	3,417
Japan	3,142	3,638	3,403	3,462	3,009
Mexico	2,285	2,425	2,519	2,646	2,921
Poland	1,609	1,608	1,819	1,693	1,752
Spain	1,109	1,157	1,222	1,330	1,337
Indonesia	1,102	1,047	1,204	1,213	1,268
Iran	821	733	875	1,146	1,268
Republic of South Africa	1,074	1,004	1,053	1,139	1,160
Turkey	827	882	1,005	1,071	1,154
Canada	1,157	1,125	1,211	987	1,127
Argentina	1,059	1,130	1,125	1,162	1,121
Colombia	644	693	735	794	888
Philippines	650	827	981	992	854
Australia	1,030	838	907	873	839
East Germany	761	772	859	772	794
Egypt	639	661	661	740	766
Yugoslavia	717	713	719	717	719
Czechoslovakia	747	772	772	777	716
Pakistan	540	551	716	628	671
Romania	551	664	772	661	661
Venezuela	466	500	572	588	640
Peru	507	551	588	628	628
Thailand	452	455	552	551	606
Bulgaria	612	538	551	573	584
Cuba	551	497	827	551	579
Hungary	524	584	595	591	579
Other countries	12,024	12,486	12,680	12,034	12,418
World total	82,388	85,449	88,864	86,124	87,655

1/ Crop years for most countries are on a September/August basis.
2/ Preliminary.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 5.--**Sugar:** World production and consumption, 1956/57 to 1978/79

Crop year	World sugar production	World sugar consumption	Production less consumption	World per capita consumption
	1,000 short tons, raw value			Pounds, raw value
Year beginning Sept. 1--				
1956	46,670	46,548	122	32.98
1957	49,793	49,277	516	34.28
1958	56,255	52,426	3,829	35.80
1959	54,634	53,956	678	36.07
1960	61,809	58,129	3,680	38.19
1961	57,707	61,290	-3,583	39.50
1962	56,407	60,052	-3,645	37.97
1963	60,345	59,812	533	37.09
1964	73,668	65,337	8,331	39.74
1965	69,557	69,242	315	41.34
1966	72,357	72,153	204	42.27
1967	73,231	72,349	882	41.60
1968	74,718	75,111	-393	42.40
1969	81,952	79,611	2,341	44.11
1970	80,215	82,032	-1,817	44.61
1971	80,717	83,084	-2,367	44.35
1972	84,643	85,167	-524	44.61
1973	88,514	88,196	318	45.38
1974	87,743	85,505	2,238	43.15
1975	91,283	88,468	2,815	43.55
1976	97,472	91,798	5,674	44.20
1977	101,808	95,752	6,056	1/
1978	102,776	99,505	3,271	1/

1/ Not available.

Source: Compiled from statistics of F. O. Licht, independent market news reporting service, Feb. 22, 1979.

Table 6.--Sugar: U.S. imports, by source and types, 1973-78

(In short tons, raw value)

Source and type	1973	1974	1975	1976	1977	1978
Philippines	1,454,377	1,472,299	413,034	913,781	1,442,991	846,831
Dominican Republic	745,043	817,728	775,147	971,084	974,788	733,530
Brazil	652,084	783,330	197,131	0	660,633	600,401
Argentina	84,759	109,755	112,318	86,729	266,968	271,097
Peru	407,410	471,145	215,679	312,726	314,186	225,175
Australia	265,388	241,705	479,163	469,534	500,741	158,977
Guatemala	62,552	95,934	60,606	330,578	300,938	156,019
El Salvador	59,880	65,127	107,466	143,154	166,028	130,364
Panama	52,273	65,525	98,250	95,031	131,162	122,934
Colombia	75,055	104,820	159,065	84,289	14,249	113,410
Mauritius	44,599	45,527	26,741	29,811	57,363	112,261
Nicaragua	76,193	53,254	57,962	165,710	119,529	108,203
Canada	0	1	39,990	49,457	138,027	98,144
Belize	47,509	62,506	46,155	14,350	35,549	87,261
Swaziland	30,186	41,360	35,795	45,923	61,855	82,457
Costa Rica	99,705	78,515	56,240	65,076	95,365	78,318
Thailand	19,072	26,220	123,512	70,059	0	64,761
Bolivia	7,549	5,714	3,507	52,990	49,473	62,441
South Africa	73,883	69,410	134,082	98,472	274,227	60,058
Taiwan	86,198	90,059	139,963	86,534	86,055	56,586
Mexico	636,832	538,131	41,130	543	274	52,998
Fiji	44,605	46,083	1	0	18,407	50,713
Trinidad	1/	1/	1/	1/	1/	49,050
Guyana	1/	1/	1/	1/	1/	46,088
Jamaica	1/	1/	1/	1/	1/	43,856
France	0	0	0	14,275	27,215	42,851
Ecuador	93,156	59,628	46,770	28,441	55,380	37,294
Malawi	15,615	10,274	26,585	17,659	38,358	37,028
Belgium	0	2	0	717	1,690	25,146
St. Kitts	1/	1/	1/	1/	1/	21,568
Barbados	1/	1/	1/	1/	1/	20,762
Honduras	0	8,455	6,073	7,483	20,634	17,781
West Germany	2	5	1	904	19,906	16,539
Malagasy Republic	12,130	13,088	13,022	13,400	12,052	14,295
Romania	0	0	0	0	0	13,209
Mozambique	0	0	15,090	31,847	97,311	12,913
Uruguay	0	0	0	5,229	0	8,220
Haiti	15,294	18,807	11,622	6,218	0	5,757
Republic of Korea	0	0	10,615	940	288	1,036
India	81,445	84,902	187,624	188,545	32	58
United Kingdom	5,247	0	29	84	44	43
Netherlands	0	0	22	1,538	0	7
Sweden	9	4	3	2	2	3
Hong Kong	1	0	0	0	1	3
Ireland	1,107	0	0	0	0	2
Japan	0	1	0	0	0	1
West Indies	40,836	282,146	237,537	243,978	159,744	1/
Denmark	0	0	2	0	3,099	0
Paraguay	7,398	8,506	3,328	10,187	0	0
Switzerland	0	0	0	745	0	0
Austria	0	10	0	16	0	0
Netherland Antilles	0	0	1,296	0	0	0
Venezuela	31,901	0	24	0	0	0
Total	5,329,293	5,769,976	3,882,580	4,658,039	6,144,564	4,686,449
Refined imports	19,335	266	72,680	78,092	271,944	99,649
Raw imports	5,309,958	5,769,710	3,809,900	4,579,947	5,872,620	4,586,800

1/ West Indies was not separately reported before 1978.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 7.--Supply and distribution of raw sugar in the Southeastern region for 1977/78 sugar crop

(In short tons, raw value)

Item	Quantity
Production:	
Marketed by the Florida Sugar Marketing and Terminal Association, Inc. (FSM)	496,000
Marketed by United States Sugar Corporation (USSC)	283,000
Marketed by Talisman Sugar Mill (TSM)	100,000
Total	879,000
Imports:	
To Savannah from Belgium, France, and West Germany	66,000
To Savannah from other sources	150,000
Total	216,000
Total supply	1,095,000
Exports (sales outside of the Southeastern region):	
Marketed by FSM to Tootsie Roll	18,000
Marketed by FSM to Amstar	60,000
Marketed by FSM to sugar operators	23,000
Total	101,000
Commodity Credit Corporation Stocks:	
Price-support loan collateral forfeited by FSM	146,000
Stocks left under extended price-support loans by FSM	66,000
Total	212,000
Consumption (raw sugar refined in the Southeastern region):	
Marketed by FSM to Savannah Foods and Industries, Inc. (SFI)	70,000
Marketed by FSM to Florida Sugar Refinery (FSR)	45,000
Marketed by FSM to Coca-Cola (refined by SFI)	68,000
Total marketed by FSM	183,000
Marketed by USSC to SFI (long-term contract)	283,000
Marketed by TSM to FSR	100,000
Marketed by importers to SFI	216,000
Total	782,000
Total distribution	1,095,000

Source: Compiled from information supplied by Florida Sugar Marketing and Terminal Association, Inc.

Table 8.--Sugar: Net sales by U.S. growers, processors, millers, and refiners on their sugar operations, accounting years 1972-76

(In thousands of dollars)

Item	1972	1973	1974	1975	To Sept. 30 1/--	
					1975	1976
Sugar beet growers and beet sugar processors:						
27 growers	2/	2/	2/	2/	2/	2/
10 processors	841,513	1,012,477	1,951,782	1,562,280	3/ 535,430	3/ 428,545
Total	841,513	1,012,477	1,951,782	1,562,280	535,430	428,545
Sugar cane growers:						
19 Florida growers	***	***	***	***	***	***
23 Louisiana growers	***	***	***	***	***	***
14 Hawaiian growers	***	***	***	***	***	***
Total	65,590	88,943	161,916	181,039	4/	4/
Sugar cane millers:						
6 Florida millers	***	***	***	***	***	***
26 Louisiana millers	***	***	***	***	***	***
1 Texas miller	***	***	***	***	***	***
14 Hawaiian millers	***	***	***	***	***	***
Total	390,846	529,573	1,408,820	1,091,366	174,656	92,685
Cane sugar refiners:						
8 refiners	***	***	***	***	***	***
1 Florida cooperative refiner	***	***	***	***	***	***
California & Hawaiian Sugar Co	***	***	***	***	***	***
Total	1,401,499	1,826,555	3,406,360	2,571,226	1,132,135	766,214
Grand total	2,699,448	3,457,548	6,928,878	5,405,911	1,842,221	1,287,444

1/ The interim 1975 and 1976 accounting periods for each of the reporting concerns range from 1 month to 12 months and end no later than Sept. 30. 2/ Data are insignificant in terms of the total for all U.S. sugar beet growers. 3/ Data are for 7 processors. 4/ Not available.
5/ The 14 Hawaiian growers are also millers. Their sugar cane is transferred to their mills at cost.
6/ Data are for 1 miller. 7/ Commenced operation on Dec. 8, 1973. 8/ Data are for 6 refiners.

Source: Compiled from data submitted to the U.S. International Trade Commission by U.S. growers, processors, millers, and refiners.

Table 9.--Sugar: Net profit or (loss) before income taxes or net proceeds paid or payable to cooperative members for U.S. growers, processors, millers, and refiners on their sugar operations, accounting years 1972-76

(In thousands of dollars)

Item	1972	1973	1974	1975	To Sept. 30 1/-- 1975	To Sept. 30 1/-- 1976
Sugar beet growers and beet sugar processors:						
27 growers (total farm)	2/	2/	2/	2/	2/	2/
10 processors	45,534	108,229	395,402	234,419	3/ 111,117	3/ 37,987
Total	45,534	108,229	395,402	234,419	111,117	37,987
Sugar cane growers:						
19 Florida growers	***	***	***	***	***	***
23 Louisiana growers	***	***	***	***	***	***
14 Hawaiian growers	***	***	***	***	***	***
Total	7,342	20,533	72,996	75,945	4/	4/
Sugar cane millers:						
6 Florida millers	***	***	***	***	***	***
26 Louisiana millers	***	***	***	***	***	***
1 Texas miller	***	***	***	***	***	***
14 Hawaiian millers	***	***	***	***	***	***
Total	55,187	121,613	641,553	357,405	40,887	16,267
Cane sugar refiners:						
8 refiners	***	***	***	***	***	***
1 Florida cooperative refiner	***	***	***	***	***	***
California & Hawaiian Sugar Co.	***	***	***	***	***	***
Total	169,757	202,535	438,851	367,150	225,943	193,977
Grand total	277,820	452,910	1,548,802	1,034,919	377,947	248,231

1/ The interim 1975 and 1976 accounting periods for each of the reporting concerns range from 1 month to 12 months and end no later than Sept. 30. 2/ Data are insignificant in terms of the total for all U.S. sugar beet growers. 3/ Data are for 7 processors. 4/ Not available.
5/ The 14 Hawaiian growers are also millers. Their sugar cane is transferred to their mill at cost.
6/ Commenced operation on Dec. 8, 1973. 7/ Data are for 6 refiners.

Source: Compiled from data submitted to the U.S. International Trade Commission by U.S. growers, processors, millers, and refiners.

Table 10.--Selected data on financial performance of United States Sugar Corporation, accounting years ending Oct. 31 of 1975-78

Item	1975	1976	1977	1978	1978 less price-support payments
Cane harvested---------1,000 short tons--	2,463	2,837	2,846	2,456	-
Average tons per acre--------------------	33.67	38.64	36.57	31.74	-
Sugar produced-- 1,000 short tons, raw value--	270.0	307.7	307.9	269.8	-
Total company operations:					
Net sales and revenues--1,000 dollars--	191,768	114,365	92,029	94,203	84,603
Gross profit--------------------do----	115,127	38,267	16,274	19,114	9,514
Operating profit----------------do----	108,456	32,459	11,070	13,708	4,108
Income before income taxes-------do----	112,075	34,622	13,061	15,154	5,554
Net income after income taxes----do----	56,962	17,704	6,956	8,705	3,866
Price-support payments included in total company sales---1,000 dollars--	-	-	-	9.600	-
Increase of total company net income after income taxes as a result of payments--------------1,000 dollars--	-	-	-	4,839	-
Sugar and sugar byproducts:					
Net sales and revenues--1,000 dollars--	185,301	107,129	82,799	84,021	74,421
Gross profit--------------------do----	116,761	39,707	17,934	18,561	8,961
Ratio of gross profit to net sales-- percent--	63.0	37.1	21.7	22.1	12.0
Ratio of net sales of sugar and sugar byproducts to total company net sales--------------------percent--	96.6	93.7	90.0	89.2	-

Source: Compiled from Annual Reports of the United States Sugar Corporation.

Table 11.--Selected data on financial performance of Gulf + Western Food Products Co., Okeelanta Sugar Division, accounting years ending July 31 of 1976-78

Item	1976	1977	1978
Cane ground for sugar--------short tons--:	***	***	***
Sugar produced--------short tons, raw value--:	***	***	***
Revenue--------1,000 dollars--:	***	***	***
Expenses:			
Cost of cane--------do----:	***	***	***
Manufacturing costs--------do----:	***	***	***
Selling, general research and development--------do----:	***	***	***
Other income (expenses)--------do----:	***	***	***
Operating income--------do----:	***	***	***
Interest expense--------do----:	***	***	***
Income (loss) before income taxes--------do----:	***	***	***
Federal income tax (48 percent)--------do----:	***	***	***
Net income (loss) after income taxes--------do----:	***	***	***

Source: Compiled form data submitted by Gulf + Western Food Products Co.

Table 12.--Selected data on financial performance of Sugar Cane Growers Cooperative of Florida, accounting years ending Sept. 30 of 1975-78

Item	1975	1976	1977	1978
Cane received------short tons--:	***	***	***	***
Gross operating proceeds------1,000 dollars--:	***	***	***	***
Operating costs------do----:	***	***	***	***
Net proceeds------do----:	***	***	***	***
less: Cooperative's earnings in net proceeds------do----:	***	***	***	***
Net proceeds available for distribution------do----:	***	***	***	***
Distribution of proceeds:				
Harvesting expense------do----:	***	***	***	***
Capital retention------do----:	***	***	***	***
Balance to members------do----:	***	***	***	***
Total------do----:	***	***	***	***
Yearend inventories of raw sugar and molasses------do----:	***	***	***	***

Source: Compiled from Annual Reports of Sugar Cane Growers Cooperative of Florida.

Table 13.--Selected data on financial performance of Atlantic Sugar Association, accounting years ending May 31 of 1976-78

Item	1976	1977	1978
Cane received------1,000 short tons--	***	***	***
Sugar produced------1,000 short tons, raw value--	***	***	***
Net sales------1,000 dollars--	***	***	***
Add: Inventories, May 31------do----	***	***	***
Gross operating proceeds------do----	***	***	***
Operating costs------do----	***	***	***
Net proceeds available for distribution------do----	***	***	***
Distribution of net proceeds:			
Harvesting expense------do----	***	***	***
Capital retention------do----	***	***	***
Balance paid or payable to members------do----	***	***	***
Total------do----	***	***	***
Price-support loans------do----	***	***	***

Source: Compiled from Annual Reports of Atlantic Sugar Association.

Table 14.--Sugar: Month-end stocks of sugar held by primary distributors, by months, 1974-78

(In thousands of short tons, raw value)

Period	Cane sugar refiners			Beet sugar processors	Importers of direct-consumption sugar	Mainland cane sugar mills	Total
	Refined	Raw	Total				
1974:							
January	249	668	917	1,334	1	236	2,488
February	270	539	809	1,330	2	367	2,509
March	318	518	836	1,263	1	392	2,493
April	320	338	658	1,168	2	346	2,174
May	285	361	646	1,123	2	263	2,034
June	303	411	714	1,034	1	200	1,949
July	271	420	691	792	2	128	1,613
August	266	347	613	521	1	64	1,200
September	255	345	600	334	1	16	949
October	217	367	583	587	1	31	1,202
November	211	540	750	953	1/	119	1,822
December	295	886	1,181	1,406	1	211	2,800
1975:							
January	288	756	1,044	1,649	1	373	3,067
February	279	600	879	1,578	1	513	2,971
March	261	601	863	1,421	1/	552	2,836
April	274	494	768	1,316	0	437	2,521
May	259	491	750	1,219	0	330	2,299
June	274	423	698	1,010	0	238	1,946
July	211	272	484	652	0	139	1,275
August	251	319	569	400	0	62	1,032
September	265	434	699	246	0	13	958
October	262	477	738	617	0	60	1,415
November	275	493	768	1,082	0	238	2,088
December	237	415	651	1,596	0	484	2,731
1976:							
January	280	461	741	1,915	0	515	3,171
February	277	421	698	1,906	0	596	3,201
March	237	362	599	1,700	0	634	2,933
April	261	410	671	1,562	0	545	2,778
May	285	429	715	1,435	0	419	2,569
June	298	522	820	1,195	0	299	2,314
July	311	588	899	919	0	220	2,038
August	284	585	869	679	0	141	1,689
September	252	513	765	496	0	62	1,324
October	290	439	729	826	0	105	1,660
November	277	631	907	1,296	0	300	2,504
December	279	776	1,055	1,777	0	509	3,341
1977:							
January	278	705	983	2,014	0	627	3,624
February	327	737	1,064	2,009	0	685	3,758
March	315	592	907	1,843	0	680	3,430
April	331	640	971	1,734	0	596	3,302
May	373	679	1,052	1,647	0	493	3,191
June	362	623	985	1,433	0	364	2,782
July	361	661	1,022	1,166	0	236	2,424
August	372	660	1,032	859	0	129	2,019
September	406	763	1,169	704	0	79	1,951
October	366	846	1,211	949	0	99	2,259
November	328	1,041	1,369	1,342	0	298	3,009
December	334	1,677	2,012	1,691	91	556	4,349
1978:							
January	366	1,334	1,700	1,812	85	755	4,352
February	362	1,033	1,395	1,753	79	877	4,104
March	376	865	1,241	1,614	70	924	3,850
April	410	655	1,065	1,490	62	834	3,451
May	457	734	1,191	1,413	49	672	3,326
June	355	726	1,080	1,256	43	550	2,930
July	441	733	1,174	1,025	29	500	2,729
August	426	695	1,120	712	17	415	2,264
September	400	742	1,142	501	9	403	2,054
October	393	750	1,144	773	4	403	2,324
November	394	890	1,284	1,190	0	610	3,084
December	388	982	1,369	1,561	0	804	3,734

1/ Less than 500 short tons.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

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

Table 15.--Sugar: Ending inventories and production for mainland cane mills and for the United States, 1972-78 and January-June of 1972-78

Period	Mainland cane mills: Inventories	Mainland cane mills: Production	Mainland cane mills: Ratio of inventories to production	Total United States: Inventories	Total United States: Production	Total United States: Ratio of inventories to production
	1,000 short tons, raw value	1,000 short tons, raw value	Percent	1,000 short tons, raw value	1,000 short tons, raw value	Percent
1972	116	1,240	9.36	2,865	6,318	45.35
1973	100	1,460	6.85	2,685	6,324	42.46
1974	211	1,297	16.27	2,879	5,963	48.28
1975	484	1,584	30.56	2,903	6,611	43.91
1976	509	1,542	33.01	3,513	7,130	49.27
1977	556	1,444	38.50	4,544	6,373	71.30
1978 1/	804	1,442	55.76	3,976	5,821	68.30
Jan.-June						
1972	225	435	51.72	2/	2/	2/
1973	364	684	53.22	2/	2/	2/
1974	200	528	37.88	2/	2/	2/
1975	238	587	40.55	2/	2/	2/
1976	299	649	46.07	2/	2/	2/
1977	364	574	63.42	2/	2/	2/
1978 1/	550	625	88.00	2/	2/	2/

1/ Preliminary estimate.
2/ Not available.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 16.--Sugar: U.S. production, imports, exports, ending stocks, and consumption, 1960-78

Year	Production	Imports	Exports	Ending stocks	Consumption 1/	Ratio of imports to-- Production	Ratio of imports to-- Consumption
	Million short tons, raw value					Percent	
1960	5.04	4.88	0.05	2.48	9.49	97	51
1961	5.40	4.41	.06	2.35	9.86	82	45
1962	5.42	4.68	.07	2.40	9.99	86	47
1963	5.88	4.59	.03	2.66	10.19	78	45
1964	6.60	3.63	.02	2.95	9.91	55	37
1965	6.27	4.03	.09	2.87	10.27	64	39
1966	6.18	4.50	.07	2.85	10.60	73	42
1967	6.12	4.80	.07	2.98	10.68	78	45
1968	6.28	5.13	.08	3.08	11.23	82	46
1969	5.97	4.89	.08	2.92	10.94	82	45
1970	6.34	5.30	.07	2.85	11.61	84	46
1971	6.14	5.59	.09	2.89	11.59	91	48
1972	6.32	5.46	.05	2.86	11.70	86	47
1973	6.32	5.33	.03	2.69	11.77	84	45
1974	5.96	5.77	.03	2.38	11.47	97	50
1975	6.61	3.88	.15	2.90	10.18	59	38
1976	7.13	4.66	.07	3.51	11.10	65	42
1977	6.37	6.14	.03	4.54	11.42	96	54
1978	5.82	4.69	.05	3.98	11.05	81	42

1/ Actual consumption, including human, livestock feed, alcohol, and refining loss.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 17.--Sugar: U.S. deliveries, by industrial uses, by nonindustrial users, and by quarters, 1972-78

(In millions of pounds)

Period	Industrial uses								Nonindustrial users						
	Bakery, cereal, and allied products	Confectionery and related products	Ice cream and dairy products	Beverages	Canned, bottled, frozen foods; jams, jellies, etc.	Multiple and all other food uses	Nonfood uses	Total	Hotels, restaurants, and institutions	Wholesale grocers, jobbers, and sugar dealers	Retail grocers, chain-stores, and supermarkets	All other deliveries	Total	Unspecified	Total
1972:															
Jan.-Mar---	684	541	248	1,057	379	239	46	3,194	43	967	592	44	1,646	0	4,840
Apr.-June--	698	501	340	1,326	469	268	41	3,643	39	1,005	648	38	1,730	0	5,372
July-Sept--	800	531	341	1,401	713	259	47	4,092	44	1,173	731	50	1,999	0	6,091
Oct.-Dec---	716	542	270	1,090	413	250	48	3,328	44	1,060	661	43	1,808	0	5,136
Total----	2,899	2,114	1,199	4,874	1,974	1,016	181	14,256	169	4,206	2,632	176	7,183	0	21,439
1973:															
Jan.-Mar---	694	511	273	1,070	410	257	56	3,270	45	911	543	46	1,544	0	4,814
Apr.-June--	737	533	340	1,325	492	262	50	3,739	47	1,016	645	52	1,759	0	5,498
July-Sept--	734	495	313	1,426	710	247	52	3,978	50	1,199	797	61	2,107	0	6,085
Oct.-Dec---	742	532	265	1,118	438	238	64	3,396	46	1,002	648	54	1,749	0	5,145
Total----	2,907	2,070	1,190	4,939	2,050	1,004	222	14,382	188	4,127	2,633	213	7,160	0	21,542
1974:															
Jan.-Mar---	783	566	292	1,086	410	265	70	3,472	46	947	631	52	1,677	0	5,149
Apr.-June--	737	530	320	1,309	462	238	66	3,662	46	1,035	671	67	1,818	0	5,480
July-Sept--	748	523	307	1,323	715	277	63	3,955	54	1,134	780	58	2,026	0	5,981
Oct.-Dec---	617	418	221	982	311	248	57	2,854	36	888	625	64	1,614	0	4,468
Total----	2,886	2,037	1,140	4,699	1,898	1,028	256	13,944	181	4,004	2,707	242	7,135	0	21,079
1975:															
Jan.-Mar---	500	315	170	787	199	188	32	2,191	33	518	379	43	973	85	3,250
Apr.-June--	601	379	278	1,085	337	250	41	2,971	45	979	646	37	1,706	140	4,816
July-Sept--	653	421	289	1,214	588	276	44	3,484	34	1,243	767	46	2,089	186	5,760
Oct.-Dec---	622	419	239	953	280	223	50	2,786	31	970	671	38	1,709	187	4,682
Total----	2,376	1,533	976	4,039	1,405	936	168	11,432	142	3,709	2,463	164	6,478	636	18,545
1976:															
Jan.-Mar---	648	462	247	961	278	254	50	2,899	26	877	540	48	1,492	249	4,640
Apr.-June--	610	429	281	1,186	348	285	54	3,191	36	1,016	613	65	1,729	281	5,202
July-Sept--	613	415	286	1,198	480	229	46	3,265	33	1,223	754	69	2,079	267	5,612
Oct.-Dec---	587	428	222	981	259	212	46	2,735	32	952	634	78	1,696	202	4,632
Total----	2,457	1,733	1,035	4,326	1,364	979	195	12,091	128	4,068	2,540	260	6,996	1,000	20,087
1977:															
Jan.-Mar---	685	470	256	1,016	295	254	53	3,029	33	970	577	73	1,653	177	4,859
Apr.-June--	687	460	302	1,314	354	237	50	3,403	34	978	587	79	1,677	124	5,205
July-Sept--	660	453	292	1,353	494	297	46	3,594	33	1,084	687	66	1,871	252	5,716
Oct.-Dec---	604	436	233	1,056	274	253	50	2,907	38	1,034	673	72	1,818	199	4,924
Total----	2,636	1,819	1,083	4,739	1,417	1,041	199	12,933	140	4,066	2,524	290	7,019	752	20,704
1978:															
Jan.-Mar---	667	453	264	1,122	283	197	68	3,054	46	843	472	55	1,416	68	4,538
Apr.-June--	652	447	314	1,435	350	207	72	3,477	51	997	580	68	1,695	73	5,245
July-Sept--	643	444	273	1,448	427	195	108	3,539	57	1,141	682	70	1,951	90	5,580
Oct.-Dec---	604	445	226	1,111	284	215	68	2,953	54	944	602	54	1,655	83	4,691
Total----	2,566	1,789	1,038	5,154	1,344	814	317	13,023	208	3,926	2,336	247	6,717	314	20,054

Source: Compiled from official statistics of the U.S. Department of Agriculture.

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

Table 18.--Sugar: U.S. production, imports, exports, ending stocks, and consumption, 1972-78

(In short tons, raw value)

Year	Production	Imports						Exports	Ending stocks	Consumption
		From LTFV sources				From all others	Total			
		Belgium	France	West Germany	Subtotal					
1972--	6,318,411	0	0	0	0	5,458,812	5,458,812	50,378	2,864,783	11,699,670
1973--	6,324,049	0	0	2	2	5,329,291	5,329,293	25,536	2,685,268	11,765,311
1974--	5,963,296	2	0	5	7	5,769,969	5,769,976	27,640	2,879,310	11,472,252
1975--	6,610,839	0	0	1	1	3,882,579	3,882,580	147,287	2,902,874	10,176,189
1976--	7,129,812	717	14,275	904	15,896	4,642,143	4,658,039	67,566	3,512,563	11,100,636
1977--	6,372,573	1,690	27,215	19,906	48,811	6,095,753	6,144,564	34,959	4,544,450	11,419,058
1978--	5,820,864	25,146	42,851	16,539	84,536	4,601,913	4,686,449	46,531	3,976,335	11,046,212

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 19.--Sugar: Ratios of imports to consumption, 1972-78

(In percent)

Year	From LTFV sources				From all others	Total imports
	Belgium	France	West Germany	Subtotal		
1972--------	0	0	0	0	46.6578	46.6578
1973--------	0	0	1/	1/	45.2966	45.2966
1974--------	1/	0	1/	.0001	50.2949	50.2950
1975--------	0	0	1/	1/	38.1536	38.1536
1976--------	.0065	.1286	.0081	.1432	41.8186	41.9618
1977--------	.0148	.2383	.1743	.4274	53.3822	53.8097
1978--------	.2276	.3879	.1497	.7653	41.6605	42.4258

1/ Less than 0.00005 percent.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 20.--Raw sugar: U.S. and world prices, by months, 1974-78

(In cents per pound)

Period	World price, f.o.b., Caribbean 1/	Cost of insurance and freight	Duty per lb. for raw sugar 2/	World price, New York basis	Premium or discount 3/	U.S. price, New York, duty paid 4/	Price paid to foreign supplier
1974:							
January-----	15.32	0.925	0.625	16.87	-4.24	12.63	11.08
February----	21.28	.925	.625	22.83	-5.74	17.09	15.54
March-------	21.27	.965	.625	22.86	-4.75	18.11	16.52
April-------	21.77	1.005	.625	23.40	-4.15	19.25	17.62
May---------	23.65	1.125	.625	25.40	-2.35	23.05	21.30
June--------	23.67	1.105	.625	25.40	.90	26.30	24.57
July--------	25.40	1.035	.625	27.06	1.29	28.35	26.69
August------	31.45	1.005	.625	33.08	-.48	32.60	30.97
September---	34.35	.975	.625	35.95	-2.24	33.71	32.11
October-----	39.63	1.045	.625	41.30	-2.47	38.83	37.16
November----	57.17	1.045	.625	58.84	-1.54	57.30	55.63
December----	44.97	.955	.625	46.55	.19	46.74	45.16
1975:							
January-----	38.32	.845	.625	39.79	.36	40.15	38.68
February----	33.72	.875	.625	35.22	.85	36.07	34.57
March-------	26.50	.875	.625	28.00	.52	28.52	27.02
April-------	24.06	.875	.625	25.56	.51	26.07	24.57
May---------	17.38	.805	.625	18.81	.46	19.27	17.84
June--------	13.83	.795	.625	15.25	.71	15.96	14.54
July--------	17.06	.795	.625	18.48	1.41	19.89	18.47
August------	18.73	.745	.625	20.10	1.01	21.11	19.74
September---	15.45	.765	.625	16.84	.52	17.36	15.97
October-----	14.09	.775	.625	15.49	-.04	15.45	14.05
November----	13.40	.775	.625	14.80	.23	15.03	13.63
December----	13.29	.775	.625	14.69	.11	14.80	13.40
1976:							
January-----	14.04	.755	.625	15.42	0	15.42	14.04
February----	13.52	.755	.625	14.90	.14	15.04	13.66
March-------	14.92	.825	.625	16.37	-.10	16.27	14.82
April-------	14.06	.825	.625	15.51	.07	15.58	14.13
May---------	14.58	.825	.625	16.03	-.06	15.97	14.52
June--------	12.99	.805	.625	14.42	-.02	14.40	12.97
July--------	13.21	.805	.625	14.64	-.05	14.59	13.16
August------	9.99	.785	.625	11.40	-.08	11.32	9.91
September---	8.16	.879	1.011	10.05	-.25	9.80	7.91
October-----	8.03	.845	1.875	10.75	-.10	10.65	7.93
November----	7.91	.795	1.875	10.58	-.12	10.46	7.79
December----	7.54	.795	1.875	10.21	.01	10.22	7.55

See footnotes at end of table.

Table 20.-- Raw sugar: U.S. and world prices, by months, 1974-78--Continued

(In cents per pound)

Period	World price, f.o.b., Caribbean 1/	Cost of insurance and freight	Duty per lb. for raw sugar 2/	World price, New York basis	Premium or discount 3/	U.S. price, New York, duty paid 4/	Price paid to foreign supplier
1977:							
January	8.37	0.785	1.875	11.03	-0.08	10.95	8.29
February	8.56	.785	1.875	11.22	-.16	11.06	8.40
March	8.98	.835	1.875	11.69	-.02	11.67	8.96
April	10.12	.775	1.875	12.77	-.20	12.57	9.92
May	8.94	.765	1.875	11.58	-.24	11.34	8.70
June	7.82	.765	1.875	10.46	-.18	10.28	7.64
July	7.38	.725	1.875	9.98	.17	10.15	7.55
August	7.61	.725	1.875	10.21	1.00	11.21	8.61
September	7.30	.725	1.875	9.90	.51	10.41	7.81
October	7.08	.785	1.875	9.74	.49	10.23	7.57
November	7.07	.855	1.875	9.80	1.54	11.34	8.61
December	8.09	.855	1.875	10.82	1.51	12.33	9.60
1978:							
January	8.77	.797	3.171	12.74	.64	13.38	9.41
February	8.48	.750	5.513	14.74	-.98	13.76	7.50
March	7.74	.750	5.513	14.00	-.35	13.65	7.39
April	7.59	.830	5.513	13.93	0	13.93	7.59
May	7.33	.780	5.513	13.62	.33	13.95	7.66
June	7.23	.830	5.513	13.57	.52	14.09	7.75
July	6.43	.700	5.513	12.64	.85	13.49	7.28
August	7.09	.700	5.513	13.30	1.10	14.40	8.19
September	8.16	.700	5.513	14.37	.68	15.05	8.84
October	8.96	.700	5.513	15.17	.04	15.21	9.00
November	8.02	.720	5.513	14.25	-.04	14.21	7.98
December	7.99	.750	5.513	14.25	.23	14.48	8.22

1/ Data for January 1974 to October 1977 are spot prices for Contract No. 11, bulk sugar, f.o.b., stowed at Greater Caribbean ports (including Brazil). Beginning November 1977, data are world prices as reported by the International Sugar Organization pursuant to Article 53 of the International Sugar Agreement.

2/ Includes section 22 fees.

3/ Prior to 1975, the premium or discount in the U.S. market was attributed to quota limitations under the Sugar Act.

4/ Data for January 1975 to October 1977 are spot prices for Contract No. 12, bulk sugar, delivered at Atlantic or Gulf ports, duty paid or duty free. Beginning November 1977, data are estimates calculated on the basis of the spread in futures prices for the nearest trading month with both Contracts Nos. 11 and 12 futures.

Source: Compiled from official statistics of the U.S. Department of Agriculture, except as noted.

APPENDIX E

GENERAL COUNSEL MEMORANDUM ON REGIONAL INJURY

GC-C-206

May 7, 1979

MEMORANDUM

TO: Commissioner Moore

FROM: General Counsel 1/ MHS by JM

SUBJECT: Sugar from Belgium, France, and West Germany, Investigations Nos. AA1921-198, 199 and 200. 2/

Introduction

This memorandum will address the question of whether the facts of this investigation warrant using a theory of a regional market. We believe that there is in this case a construction of the record that would justify using the regional market theory, though the Commission is not required to use the theory.

Background

On March 1, 1979, the Commission, after receiving advice from the Department of Treasury that sugar from Belgium, France, and West Germany, provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States, is being or is likely to be sold at less than fair value within the meaning of the Antidumping Act, instituted these investigations under section 201(a) of the Antidumping Act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such merchandise into the United States. The Commission had previously conducted three 30-day inquiries (Sugar from Belgium, France, and West Germany--Inquiries Nos. AA1921-Inq. 20, 21, and

1/ This memorandum was principally prepared by Gregory L. Lambert.
2/ Library reference: Regional injury, sugar, domestic industry.

22-September 1978) to determine whether there was a reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of sugar from Belgium, France, and West Germany allegedly sold at less than fair value. The Commission, Commissioner Ablondi dissenting, found that there was a reasonable indication of injury in these inquiries.

Considerations with respect to the existence of a regional market

In the present investigation of sugar from the common market, witnesses and counsel for the Florida Sugar Marketing and Terminal Association (complainant) indicated that the Commission should make its determination in this investigation on a regional basis. Specifically, they contended that the less than fair value sales are causing or likely to cause injury to the sugar producers in the southeastern market. The Commission has in the past based some determinations of whether injury to a domestic industry exists on the basis of injury to a regional, as opposed to a national market. 3/ The Commission has more recently relied on the legislative history of the Trade Act of 1974, embodied in the Senate Finance Committee Report, to justify the utilization of a regional market. 4/

3/ Cast Iron Soil Pipe from the United Kingdom Inv. No. AA1921-5 (1955) affirmed Ellis K. Orlowitz Company v. United States 200 F. Supp. 302 (1961). Ellis K. Orlowitz v. U.S. 50 CCPA 36 (1963); Portland Cement from Sweden AA1921-16 (1961), Portland Cement from Belgium, Inv. No. AA1921-19 (1961); Portland Cement from the Dominican Republic, AA1921-25 (1962) affirmed in Imbert Imports Inc., v. The United States, 475 F.2d 1189 (CCPA, 1973); Portland Hydraulic Cement from Canada, Inv. No. AA1921-184 (1978); Carbon Steel Plate from Japan, Inv. No. 1921-179, (1978).

4/ The Senate Finance Committee report states at pages 180-181:

A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are

(footnote continued)

In a number of recent Commission investigations, it has been held by a number of Commissioners that an industry may be considered "regional" in character particularly where "(1) domestic producers of an article are located regionally and serve a particular regional market predominately or exclusively and (2) the LTFV imports are concentrated primarily in the regional market." 5/

Commission policy as approved in action jacket No. GC-78-057 is that "where a great deal of the output of domestic producers is sold in traditionally identifiable geographic regions and these marketing patterns are disrupted by LTFV imports, this effect is highly relevant to a determination as to whether an industry is or is likely to be injured." 6/

The domestic industry

During the course of this investigation, a question has arisen as to what constitutes the regional market and whether there is such a market? For example, it has been pointed out that sugar refined in Savannah is available in areas outside the southeastern region. The relevant market would be determined by the nature of the industry allegedly injured.

(footnote continued)
concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whold domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to the industry.

5/ See separate opinions of Commissioners Bedell and Alberger in Portland Hydraulic Cement from Canada, Inv. No. 1921-184 (1978), and opinion of then Chairman Minchew and Commissioner Alberger in Carbon Steel Plate from Japan, Inv. No. 1921-179 (1978).

6/ Action Jacket No. GC-78-057, initiated 6/6/78, approved 6/6/78, letter to Peter D. Ehrenhaft, Deputy Assistant Secretary of the Treasury and Special Counsel, summary of views and past practices of the Commission with respect to "regional injury."

Treasury in their notice referring this matter to the ITC for a preliminary inquiry as to whether there exists a reasonable indication of injury defined the sugar under consideration as "raw and refined sugar provided for in item rule 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS)." 7/ Treasury's notice of withholding of appraisement and determination of sale at Less Than Fair Value 8/ uses similar language. Hence, the Commission could look at the market for raw and refined sugar.

We note, however, that all imports from the EC have consisted of raw sugar. Hence the domestic industry may be considered to be the producers of raw sugar. The Senate Finance Committee's report on the Trade Act of 1974 allows great discretion in defining the domestic industry. 9/ The domestic industry involved here can reasonably be said to be the industry in competition with the imported goods i.e. the industry producing raw sugar. In that case, the market area to be considered would reasonably be the marketing area for raw sugar. By this reasoning, the marketing area for refined sugar may be ignored by the Commission.

7/ Antidumping Proceeding Notice 43 F.R. 36746 (August 18, 1978), see Commission Staff Report Appendix D.

8/ 44 F.R. 8949 (February 12, 1979), Staff Report Appendix E.

9/ The Senate Finance Committee report states at page 179-180:

> (2) Industry.--The Antidumping Act refers to "an industry in the United States." There are no qualifications as to the kind of industry or the number of industries that might be adversely affected by the less-than-fair-value imports under consideration. Although the Commission's investigations have usually been concerned with an industry consisting of the domestic producer facilities engaged in the production of comparable articles (i.e., articles like the imported articles), a number of investigations have been concerned with the domestic facilities engaged in the production of articles which, although unlike the imports, are nevertheless competitive therewith in domestic markets. In any case, the industry is a national industry involving all domestic facilities engaged in the production of the domestic articles involved.

The Regional Nature of the Market

According to data received from complainant, the Florida sugar industry previously sold about 85 percent of its produce to Savannah Foods and Industries. During the 1977/78 crop year 879,000 short tons of raw sugar were produced in the Southeastern region, all by Florida sugar producers. Of that total, 101,000 tons (11.5 percent) were sold by the Florida producers to purchasers outside the Southeastern region; 556,000 tons (64.4 percent) were sold to purchasers for refining within the region; and 212,000 tons (24.1 percent) were placed under price-support loans.

In their Post Hearing Memorandum the Florida Marketing and Terminal Association states, "In the past two months FSM has put into operation a deep draft, ocean-going barge which, for the first time, permits the Association to market some sugar as far north as New York City." They then argue: "While this development could alter FSM's traditional marketing patterns and therefore the regional nature of its sales to some extent in the future, clearly it has no relevance in determining the appropriateness of using the regional industry test in measuring the injury caused by imports prior to commencement of this operation."* (footnote in original)

This shift of sales indicates that it is economically and commercially feasible to deliver sugar to buyers outside the regional market and hence works against the theory of a "regional market." However, we see nothing in the law or its history that requires, by reason of the mere existence of sales

*In any event, in view of freight costs, is is highly unlikely that Florida producers will ever cease to market this produce predominantly within the region. (footnote in original) outside the "regional market," the Commission to look at the national market. Here then exists a situation where regional producers are still serving a regional market predominately.

However, we also note that the mere existence of a regional marketing system does not require the Commission to deal with the question of regional injury exclusively or in conjunction with the question of national injury. The Commission is required to make a realistic evaluation of the facts of each case, not to apply a formula. If warranted by the facts, in the opinion of each Commissioner, the Commission is still free to look exclusively at the national market. The Senate Finance Committees report on the Trade Act of 1974 recognized the difficulty of the automatic application of a regional test. 10/

In an earlier memorandum on the issue of regional injury in the EC Sugar investigation, 11/ this office indicated "The existence of shortages in other geographic regions, such as existed in the recent Commission investigation of Portland Hydraulic Cement from Canada, especially if these shortages would be likely to appear in the southeast would also be a factor militating against the finding of injury in the regional market." There is no evidence of shortages in other geographic regions.

Sales Limited to the Southeastern Region

10/ The Senate Report states at page 181:

A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to the industry.

11/ General Counsel Memorandum GC-C-160, April 3, 1979.

A final part of the test developed by the Commission examines whether the LTFV sales have been concentrated in any one area.

According to data ascertained during the preliminary inquiry 90 percent of all sugar imports from Belgium, West Germany and France were sold to Savannah Foods. Recent information indicates that imports from these countries have ceased.