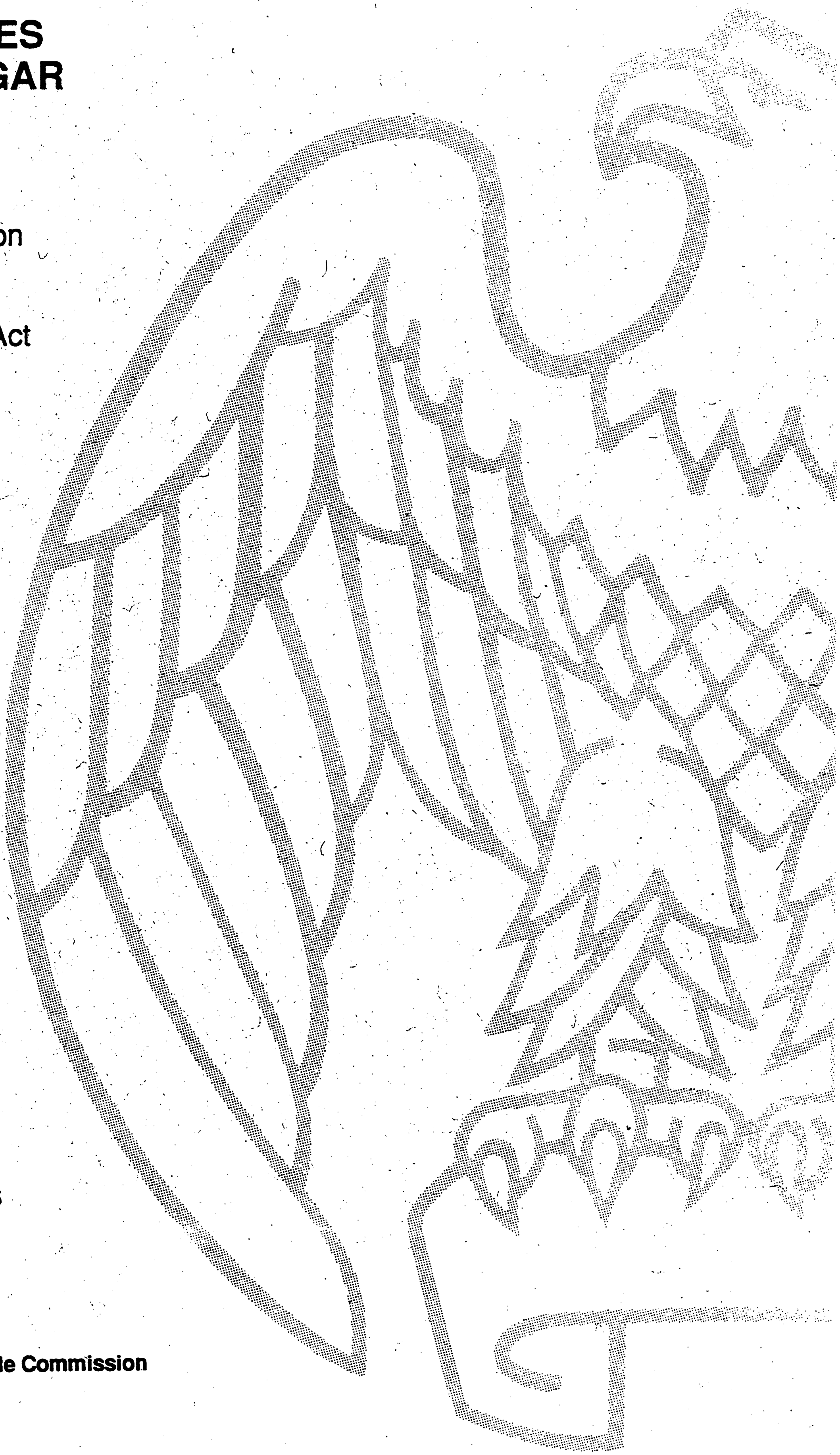
CERTAIN ARTICLES CONTAINING SUGAR

Report to the President on investigation No. 22-48 Under Section 22 of the Agricultural Adjustment Act



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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PREFACE

On March 22, 1985, the President requested the Commission to conduct an investigation, pursuant to section 22 of the Agricultural Adjustment Act of 1933, concerning certain articles containing sugar. In October 1985, the Commission submitted its findings and recommendations in investigation No. 22-48, Certain Articles Containing Sugar, to the President, in confidence. The Commission's report was not released to the public at that time, consistent with instructions from the U.S. Trade Representative. It is the Commission's practice, when responding to a request from the President for information or findings which are not required by law to be released to the public, to defer to the President or his representative, the U.S. Trade Representative, on whether and when such information or findings are to be made available to the public. In this investigation, the U.S. Trade Representative directed the Commission on April 12, 1993, to release the report to the public.

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

REPORT TO THE PRESIDENT ON
INVESTIGATION NO. 22-48
CERTAIN ARTICLES CONTAINING SUGAR

October 10, 1985

Findings

On the basis of the information developed during this investigation—

Chairwoman Stern and Commissioners Lodwick and Rohr find that imports of certain powdered iced tea mixes, lemonade mixes, cocktail mixes, beverage bases, and retail packaged sugar/dextrose blends provided for in TSUS item 183.05, containing over 10 percent by dry weight of sugar derived from sugarcane or sugar beets are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program of the U.S. Department of Agriculture for sugarcane and sugar beets.

They find that all other articles which are the subject of the investigation are not being and are not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the USDA price-support program for sugarcane and sugar beets.

Vice Chairman Liebeler finds that imports of sweetened cocoa (TSUS item 156.45), confectioners' coatings (TSUS item 156.47), candy and other confectionery (TSUS item 157.10), edible preparations of gelatin (TSUS item 182.90), pancake and other flour mixes (TSUS item 183.01), and edible preparations n.s.p.f. (TSUS item 183.05), are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with USDA's price-support program for sugarcane and sugar beets. Vice Chairman Liebeler finds in the negative with respect to imports of edible preparations containing over 5.5 percent butterfat (TSUS item 182.92), certain animal feeds (TSUS item 184.7070), and edible molasses (TSUS item 155.35).

Commissioner Eckes finds that—

(1) sweetened cocoa containing over 10 percent by dry weight of sugar, provided for in TSUS item 156.45;

(2) certain pancake flour and other flour mixes containing over 10 percent by dry weight of sugar, provided for in TSUS item 183.01, except those not principally of crystalline structure or not in dry amorphous form, that are prepared for marketing to the retail consumers in the identical form and package in which imported;

(3) certain edible preparations containing over 10 percent by dry weight of sugar, provided for in TSUS item 183.05, except—

(a) cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; or

(b) finely ground or masticated coconut meat or juice mixed with sugar; or

(c) articles within the scope of item 183.0505, minced seafood preparations, and containing 20 percent or less by dry weight of sugar;

(4) certain confectioners' coatings containing over 10 percent by dry weight of sugar, provided for in TSUS item 156.47; and

(5) certain edible preparations of gelatin containing over 10 percent by dry weight of sugar, provided for in TSUS item 182.90;

are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA price-support program for sugarcane and sugar beets. Commissioner Eckes finds in the negative with respect to all other articles the subject of the investigation.

Recommendations

Chairwoman Stern and Commissioners Lodwick and Rohr recommend that the President impose an annual quota of 50,000 short tons on imports the subject of their affirmative finding.

Vice Chairman Liebeler recommends that imports of certain of these articles be made subject to fees.

Commissioner Eckes recommends that quotas be imposed on imports the subject of his affirmative finding at a level equal to the quantity of such imports which entered during calendar year 1982.

Background

On March 22, 1985, the Commission received a letter from the President directing it to make an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether certain articles are being, or are practically certain to be, imported under such conditions and in such quantities as to materially interfere with the price-support program of the U.S. Department of Agriculture for sugarcane and sugar beets.

Notice of the Commission's investigation was published in the Federal Register on May 1, 1985 (50 F.R. 18584). A public hearing was held in Washington, D.C. on July 17, 1985. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being furnished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained from information presented at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal agencies, and from the Commission's files, submissions by the interested parties, and other sources.

VIEWS OF CHAIRWOMAN STERN, COMMISSIONER LODWICK, AND COMMISSIONER ROHR

I. Summary

On March 22, 1985, the President requested the United States International Trade Commission to conduct an investigation under section 22(a) of the Agricultural Adjustment Act 1/ to determine whether certain articles containing sugar are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program of the U.S. Department of Agriculture (USDA) for sugarcane and sugar beets. 2/ The President imposed emergency quotas, effective January 29, 1985, on some of the articles subject to this investigation in Presidential Proclamation No. 5294. 3/ The emergency quotas were subsequently modified, effective May 19, 1985, by Presidential Proclamation No. 5340. 4/

We have determined that imports of certain powdered iced tea mixes, lemonade mixes, cocktail mixes, beverage bases, and retail packaged sugar/dextrose blends provided for in TSUS item 183.05, containing over 10 percent by dry weight of sugars derived from sugarcane or sugar beets, 5/ are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA

1/ 7 U.S.C. § 624(a).

2/ A copy of the President's letter to the Commission is presented in appendix A of the Report of the Commission (Report).

3/ 50 F.R. 4187 (Jan. 30, 1985). See Report at App. A.

4/ 50 F.R. 20881 (May 21, 1985). See Report at App. A.

5/ "Powdered" includes any dry amorphous crystalline forms and "retail" includes "institutional."

price-support program for sugarcane and sugar beets. 6/ 7/ We recommend the imposition of a quota covering these articles be limited to 50,000 short tons annually.

With respect to the remaining articles covered by this investigation, we have reached a negative determination and, therefore, recommend no remedies for these items.

Our affirmative determination with respect to beverage bases and sugar/dextrose blends is based primarily on the high volume of imports, the rapid increase in imports since the imposition of sugar quotas in 1982, the high sugar content of these articles, their comparatively low level of processing, the ease with which imports could increase in the future, and the enormous potential market that these imports could capture. The combination of these factors indicates that imports of these articles are practically certain to materially interfere with the price-support program if imports are not subject to restrictions. 8/

6/ Commissioner Rohr determines that powdered iced tea mixes, lemonade mixes, cocktail mixes, other beverage bases, and sugar/dextrose blends provided for in TSUS item 183.05 are being or are practically certain to be imported under such conditions and in such quantities as to materially interfere with the USDA price-support program for sugarcane and sugar beets.

7/ Chairwoman Stern suggests that the following technical description of the articles covered by the majority's affirmative determination, developed by the Commission staff in consultation with the U.S. Customs Service, may be helpful in implementing the recommended remedy, if adopted by the President:

> Certain articles provided for in TSUS item 183.05, containing over 10 percent by dry weight of sugars derived from sugarcane or sugar beets, whether or not mixed with other ingredients, except articles not principally of crystalline structure and not in dry amorphous form.

8/ Commissioner Rohr notes that based on the modifications to the emergency quotas contained in Presidential Proclamation No. 5340, the items upon which he has made an affirmative finding are the principal items currently subject to the emergency quota applicable to TSUS item 183.05. While he recognizes that import data on individual products or categories of products covered by a "basket category" TSUS item, such as item 183.05, is less than exact, he believes it to be a reasonable conclusion from the data that imports of the products in question are currently, as well as prospectively, materially interfering with the USDA sugar price-support program.

Our negative determination on the remaining articles subject to this investigation is based on their negligible current impact on the price-support program and a number of factors indicating that future imports are not "practically certain" to materially interfere with the price-support program. These factors include the low volume of imports, no significant changes in import levels, market limitations on the future growth of imports, low sugar content of many of the articles, high level of processing for many of the articles (which makes their impact on the price-support program more remote and calculations relatively more speculative), growth in the domestic industries producing some of these articles, lack of a similar domestic article for some of the ethnic or specialty food articles, and increased demand for the imported articles based on factors other than their sugar content.

II. Section 22 authority

The purpose of section 22 is to protect farm programs by authorizing the imposition of import restrictions if imports impair or interfere with those programs or increase their cost. Specifically, section 22 permits the President to impose such import restrictions as are necessary if, after investigation and report by the Commission of its findings and recommendations, he determines that "any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with," an agricultural price-support program. 9/

9/ 7 U.S.C. § 624.

Material interference has been defined by the Commission to be "more than slight interference but less than major interference." 10/ The "practically certain" standard means that the probability of articles being imported in such quantities and under such conditions as to cause material interference must be highly likely. "Mere speculation as to future imports that will cause harm to a program is not sufficient." 11/ Thus, an affirmative determination would be required if the Commission determines that imports of certain sugar-containing articles have had a significant adverse effect on the domestic price-support program or are highly likely to do so.

In gauging the effect of imports of various sugar-containing articles on the price-support program, we have separately focused on certain categories of imports for which data are available or can be derived with reasonable accuracy. An analysis based on the total effect of all imports would be inappropriate since an affirmative determination would cover many articles that either have not had a significant effect on the program, either because the volume is small, or because imports have remained stable or declined even though the volume may be high. Import restrictions in such cases would significantly burden legitimate trade without providing any corresponding benefit to the sugar program.

Conversely, an analysis based upon individual effect of each different product would not be practical because of the limitations of the available data. Furthermore, distinctions between products, similar to those arising from a like product analysis in title VII investigations, is neither required by section 22 nor would it necessarily be consistent with the overall purposes

10/ Sugar, Inv. No. 22-45, USITC Pub. 1253 at 7 (1982).
11/ Certain Tobacco, Inv. No. 22-43, USITC Pub. 1174 at 3 (1981).

of the statute. We have chosen a middle ground to analyze the effect of imports of sugar-containing articles and have adopted TSUS item numbers as the basis of our analysis. For certain "basket categories," we have made additional distinctions between groups of products based upon the level of processing and sugar content of the articles. Such a methodology is consistent with Commission practice in previous section 22 investigations. 12/

III. The price-support program for sugar

Section 201(h) of the Agriculture Act of 1949, as amended by the Agriculture and Food Act of 1981, requires a price-support program for domestically grown sugarcane and sugar beets for the 1982/85 crop years. A purchase-agreement program was established at 16.75 cents per pound for raw cane sugar processed between December 22, 1981 (the date of enactment of the Agriculture and Food Act of 1981), and March 31, 1982. Effective October 1, 1982, a nonrecourse loan program was to be established with a loan rate of not less than 17 cents per pound for raw cane sugar processed after March 31, 1982, but before July 1, 1983. The minimum loan rate for raw cane sugar was to be increased to not less than 17.5 cents per pound on October 1, 1983 (for sugar processed between July 1, 1983, and June 30, 1984), 17.75 cents per pound on October 1, 1984 (for sugar processed between July 1, 1984, and June 30, 1985), and 18 cents per pound on October 1, 1985 (for sugar processed between July 1, 1985, and June 30, 1986). The price for domestically grown sugar beets was to be supported at a level that is fair and reasonable in relation to the support level for sugarcane. 13/

12/ Certain Articles Containing Sugar, Inv. No. 22-46, USITC Pub. 1462 (1983).
13/ Report at A-13.

USDA has supported the price of refined sugar based on the historical relationship between refined beet sugar net selling prices and raw cane sugar prices for the period 1975-80 (1.13 cents to 1.00 cents). Loan rates vary by region. For crop year 1984/85, processors may receive loans for raw cane and refined beet sugar at national average prices of 17.75 cents and 20.76 cents per pound, respectively. 14/

Loans under the sugar price-support program are nonrecourse loans. Sugar processors can elect to forfeit to the Commodity Credit Corporation (CCC) the sugar held as collateral on the loan and not be liable for any additional amounts. However, sugar cannot be forfeited until 6 months after the loan is obtained. Thus, the first loans for each crop year come due in May. A notice of intention to forfeit must be given to the CCC at least 30 days prior to forfeiture. 15/

The report of the Senate Committee on Agriculture, Nutrition, and Forestry accompanying the Agriculture and Food Act of 1981 stated that the Committee intended that the section 22 authority of the President be used to prevent budgetary outlays. 16/ Thus, one of the primary goals of the sugar price-support program is the avoidance of budgetary expenditures. Such expenditures result when the program fails to maintain the market price above the target price and domestic producers consequently forfeit sugar to the CCC.

USDA, in order to avoid loan forfeitures, has established the Market Stabilization Price (MSP) above the loan rate. The MSP is the price considered by the USDA to be the minimum market price required to discourage

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14/ Id.
15/ Id.
16/ S. Rep. No. 126, 97th Cong., 1st Sess. 106 (1981).

forfeiture of sugar loans. The difference between the loan rate and the MSP is the estimated freight and related marketing expenses for raw sugar, the interest required to redeem a loan, and an incentive factor to encourage processors to sell sugar in the marketplace rather than forfeit their loans. 17/

IV. Considerations in prior section 22 investigations

In previous section 22 investigations, the Commission, in evaluating the impact or likely impact of particular imports on the domestic price-support program, has considered the volume of imports, rate of increase of imports, estimated prices of imports, the percentage sugar content of imports, production capability in other countries, the relationship of world production to consumption, domestic production, loan stocks, changes in the net cost of the operation of the price-support program, forfeitures to the CCC, carryover of supplies for next year, and prices to the consumer as tools for discerning the effect of imports on the price-support program. 18/ In this investigation, the Commission has also considered whether increases in imports of certain articles are the result of increased demand instead of avoidance of the sugar quota, whether there is an economic incentive, related to sugar costs, for the increase in imports, and whether there are comparable domestic products such that displacement of sugar demand is a possibility. 19/

17/ Report at A-13.
18/ Sugar, Inv. No. 22-41, USITC Pub. 881 at 13-16, 21-22, 35-36 (1978); Peanuts, Inv. No. 22-42, USITC Pub. 1124 at 509 (1981); Certain Tobacco, Inv. No. 22-43, USITC Pub. 1174 at 4-22, 25-27 (1981); Casein, Mixtures in Chief Value of Casein, and Lactalbumin, Inv. No. 22-44, USITC Pub. 1217 at 3-13, 18-26 (1982); Sugar, Inv. No. 22-45, USITC Pub. 1253 at 5-10 (1982).
19/ *See*, *e.g.*, Posthearing Brief of Chocosuisse at 6-9; Posthearing Brief of CAOBISCO at 3-7; Posthearing Brief of Peter Paul Cadbury at 3-4.

V. The world and U.S. sugar markets

The domestic and world markets for sugar have historically been subject to volatile changes. The world price for sugar has declined steadily from 24.80 cents per pound for the crop year 1980/81. 20/ In recent months, the world price has dropped as low as 2.74 cents per pound. 21/ The price decline can be traced to increased production, declining per capita consumption, and inventories estimated at 43.4 percent of consumption. 22/ The effects of these factors are disproportionately great on the world market because only 20 percent of world production is traded on that market with the remainder consumed in the producing country, usually at prices set by the government, or traded pursuant to preferential agreements. 23/

The U.S. sugar market has also experienced significant and rapid changes in recent years. Per capita consumption of sugar has declined steadily since 1981 and is projected to decline further by 1986. 24/ Much of this decline is attributable to increased consumption of substitute sweeteners, particularly high fructose corn syrup (HFCS). The biggest change in demand for sugar occurred in late 1984 when the major U.S. soft drink producers authorized their bottlers to use 100 percent HFCS in soft drinks. This shift to use of HFCS in soft drinks reportedly decreased U.S. demand for sugar by up to 500,000 short tons annually. 25/ In addition, U.S. consumption of non-caloric sweeteners increased from 6 to 11 percent of total sweetener consumption during 1980-84, while per capita consumption of sugar dropped from 83.6 pounds

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20/ Report at A-44.
21/ *Id.* at A-45, Table 20.
22/ *Id.* at A-8-A-9.
23/ *Id.* at A-9. *See also* Report of the Commission, Inv. No. 22-49.
24/ Report at A-7-A-8.
25/ Economic Research Service, U.S. Department of Agriculture, *Sugar and Sweetener Outlook and Situation Report* at 3, 13 (Dec. 1984).

per year in 1980 to 67.5 pounds per year in 1984. 26/ Finally, fraud in the drawback program has also led to significant increases in the U.S. supply of sugar and has been estimated to be the largest commercial fraud conspiracy ever investigated by the U.S. Customs Service (Customs Service). 27/

VI. Question of material interference

The evidence of record clearly indicates that the U.S. price for sugar has been below the Market Stabilization Price (MSP) since November 1984. Thus, the price-support program has failed to maintain an adequate domestic sugar price. Forfeitures of sugar to the CCC in 1985 totalled 870.5 million pounds. 28/ Such forfeitures result in "adverse budgetary consequences" for the price-support program of the type that Congress desired to avoid.

The problems with the program that resulted in such forfeitures, however, cannot be traced to imports of sugar-containing articles. 29/ At best such imports have had only a slight impact on the price-support program. A number of other factors have undermined the program and have resulted in forfeitures in 1985. First, the use of HFCS as an alternative to liquid sugar has

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26/ Report at A-8.

27/ Wall Street Journal, Aug. 26, 1985, at 29, col. 3. Circumvention of the sugar quota through fraud was typically accomplished by importing raw sugar into the United States, processing it, and then selling it on the domestic market outside the quota restrictions while simultaneously submitting reexport documentation to the Customs Service and claiming drawback of import duties. Importers were thereby able to obtain the benefits of high sugar prices and also collect direct payments from the U.S. Government in the form of drawbacks. It has been estimated by Customs Service officials that 250,000 tons of sugar per year have been illegally entering the U.S. market. Washington Post, June 22, 1985, at A1, col. 6. Attorneys for the Customs Service confirmed these newspaper accounts and are anticipating additional indictments to be handed down in the near future.

28/ Investigations Memorandum INV-I-186 (Oct. 1, 1985).

29/ As discussed in notes 5, 7, _infra_, and 35, 42, _supra_, Commissioner Rohr concludes that certain imports are currently having a significant impact on the price-support program.

increased, especially in the soft drink industry. 30/ Second, use of non-caloric sweeteners by U.S. food processors has increased. 31/ Third, per capita consumption of sugar in the United States has declined. 32/ Fourth, U.S. sugar production has been higher than anticipated. 33/ Fifth, there has been fraud in the drawback provisions relating to the reexport of sugar. 34/ Sixth, the quotas on imports of raw and refined sugar allowed a significant volume of sugar to enter the country in recent years. 35/ 36/

There are three different ways in which imports of sugar-containing articles may be affecting the price-support program. Importers may be extracting sugar from sugar blends or other sugar-containing products after importation. USDA is concerned to a large extent with imports of relatively unprocessed products which are imported principally for their extractable sugar content or for their ability to directly substitute for domestic sugar. According to USDA, dry mixtures with a high sugar content are being imported and the sugar content of the product is later separated and marketed domestically as sugar. 37/

30/ Report at A-44.
31/ *Id*.
32/ Id. at A-7-A-8.
33/ *Id*.
34/ *Id*.
35/ *Id*. at A-21. For quota year October 1, 1984-November 30, 1985, the aggregate quota for raw and refined sugar to be consumed in the United States was 2,675,000 short tons, raw value. The sugar content of all articles subject to investigation imported in 1984 is estimated to be approximately 150,000 short tons.
36/ Commissioner Rohr concurs with his colleagues that the factors discussed above have been, for the last several years, major factors contributing to the problems of the sugar price-support program. However, he also believes imports of certain sugar-containing articles, as previously defined, at the current time are a comparable, if not precisely equivalent, problem.
37/ Posthearing submission of the USDA, response to question 1.

Several parties to this investigation take issue with USDA's concern about extraction. 38/ They note that on November 6, 1984, the Customs Service issued a ruling banning all further importation of blends or mixtures of sugar if the sugar mixture is to be separated or in any way altered after importation. 39/ Pursuant to this ruling, a mixture of sugar and other ingredients can be imported only if it is used in the form in which it is imported. The ruling is enforced by the collection of affidavits from importers who are subject to liability for fraud in the event of a misrepresentation. The Customs Service has stated in a related ruling that "there exists . . . a methodology to preclude circumvention of the quota provisions." 40/ Thus, it appears that extraction may no longer be a source of material interference for the domestic price-support program. 41/

The second means by which imports of sugar-containing articles may be materially interfering with the domestic price-support program is substitution of semiprocessed sugar-containing articles for domestic sugar in domestic manufacturing operations. Pursuant to this theory, imports of certain articles with a high sugar content may be occurring for the purpose of indirectly gaining access to the low-priced sugar. The semiprocessed article containing sugar provides substantial savings over domestic sugar and enables the manufacturer to produce its final product at a significant cost savings.

38/ See, e.g., Posthearing Brief of Canadian Sugar Institute at 2-4; Posthearing Brief of Grand Specialties, Inc. at 4.

39/ U.S. Customs Telex (Nov. 6, 1984). See Posthearing Brief of Canadian Sugar Institute, Exhibit A.

40/ Letter from U.S. Customs Service (Nov. 7, 1984). See Posthearing Brief of Canadian Sugar Institute, Exhibit D.

41/ Of course, the products from which sugar was being extracted could continue to materially interfere with the price-support program through substitution or displacement of domestic sugar, even though extraction is prohibited.

In evaluating the impact of substitution on the price-support program, the Commission has considered whether the increased volume of imports is at the expense of domestic production of similar articles and is large enough to have had a significant effect on domestic sugar prices and the domestic sugar program. 42/

The third means by which imports may be materially interfering with the domestic price-support program is by displacing demand for U.S. sugar. For example, this could occur if imports of sugar-containing articles are increasing while U.S. production of similar articles is declining, either in absolute or relative terms. This decline in production could translate into a decline in demand for U.S. sugar and, thus, could have an impact on the domestic price of sugar and the price-support program. Such a displacement effect is indirect and difficult to assess, but nonetheless is a possibility that the Commission has considered.

VII. Specific imports practically certain to materially interfere with the USDA price-support program

The past and current levels of imports of each article subject to this investigation have not been sufficient to materially interfere with the

42/ Unlike a title VII investigation, section 22 investigations focus on the condition of a farm program and not on the condition of a domestic industry producing a like product. In this investigation, the condition of the domestic industries producing products similar to the imported articles is relevant only insofar as that condition has an impact on the price-support program for sugar. This would be the case, for example, if there was a significant decline in production that leads to a significant decline in demand for U.S. sugar. To the extent a domestic industry producing an article containing sugar is injured by imports of a similar article, other trade laws are the proper avenue for redress; section 22 is not an appropriate vehicle for such complaints.

price-support program. 43/ However, we find that imports of certain powdered iced tea mixes, lemonade mixes, cocktail mixes, beverage bases, and retail packaged sugar/dextrose blends provided for in TSUS item 183.05, containing over 10 percent by dry weight of sugars derived from sugarcane or sugar beets, are practically certain to be imported under such conditions and in such quantities as to materially interfere with the USDA price-support program unless import restrictions are imposed. We have examined the price-support program and its objectives, import levels, the sugar content of those imports, the potential for future increases in those imports, and the effect of future imports on the U.S. price for sugar and on the price-support program.

If the articles containing sugar which are covered by our affirmative determination were allowed unrestricted entry into the United States, their volume would multiply rapidly and the potential market for imports is great. Given the current market for these articles, their high sugar content, the economic incentive to import these articles, and the relative ease of expanding foreign capacity to produce these articles, future imports of these articles, in the absence of quotas, are practically certain to materially interfere with the domestic price-support program.

Imports of the articles subject to our affirmative determination totalled 2 million pounds in 1983. 44/ The volume increased to 19 million pounds in

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43/ Commissioner Rohr disagrees with his colleagues on the majority that the articles described below are not currently being imported in sufficient quantities to materially interfere with the price-support program. While it is not possible to determine precisely the exact level of importation of these products at the present time (because precise import statistics are not available for individual products in a "basket" TSUS item), the growth in imports in 1984 and the current quota level of 84,000 tons, which applies principally to those products, provide him a reasonable basis to believe that current importations are materially interfering with the program.

44/ Our estimates based upon questionnaire responses and information available from the U.S. Department of Commerce, Census of Manufactures.

1984, and further to 25 million pounds for the first quarter of 1985. 45/ 46/ The estimated sugar content of those articles is 95 percent. 47/ Further, domestic shipments of those articles equaled 618 million pounds in 1977 and 727 million pounds in 1982, the last year for which data are available. 48/ Given this huge potential market and the rapid growth in imports, there appears to be no obstacle to continued rapid growth of imports in this area.

Should the level of imports of the articles subject to our affirmative determination continue to grow at its current rate, it could easily exceed 200 million pounds next year. The sugar content of such a level of imports would equal approximately 90,000 tons. According to our analysis, if the volume were to increase as projected, it could cause a 1-1/2 cent decline in the U.S. price of raw sugar. 49/ Such a decline would significantly increase the number of forfeitures of sugar under loan and would necessitate significant budgetary expenditures of the type Congress sought to avoid.

VIII. Other imports not practically certain to materially interfere with the price-support program

We have made a negative determination regarding imports of the following articles: (1) sweetened cocoa provided for in TSUS item 156.45; (2) pancake

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45/ Id.

46/ Commissioner Rohr notes that because these articles are entered under TSUS item 183.05, which is a basket category, these volume figures are estimates, which may be substantially understated. He further notes that given the rapid increases in volume of imports of these products over the last 2 years, data 5 to 6 months old are not a particularly reliable guide to the current level of importation, which he believes to be substantially higher.

47/ Report at App. G, Table A-2.

48/ Our estimates based upon questionnaire responses and information available from the U.S. Department of Commerce, Census of Manufactures.

49/ See Economics Memorandum EC-I-346 at Table 3 (Sept. 25, 1985).

flour and other flour mixes provided for in TSUS item 183.01; (3) edible preparations not specifically provided for (n.s.p.f.), other than beverage bases and blends of sugars containing over 10 percent by dry weight of sugar, provided for in TSUS item 183.05; (4) molasses provided for in TSUS item 155.35; (5) confectioners' coatings provided for in TSUS item 156.47; (6) candy and other confectionery provided for in TSUS item 157.10; (7) edible preparations of gelatin provided for in TSUS item 182.90; (8) edible preparations containing over 5.5 percent by weight of butterfat and not packaged for retail sale provided for in TSUS item 182.92; and (9) certain mixed feed products provided for in TSUSA item 184.7070.

With regard to sweetened cocoa, the USDA stated that program interference could result from the extraction of sugar from dry mixtures of sweetened cocoa that would then directly displace U.S. sugar. 50/ However, the problem of extraction has apparently been resolved by a November 6, 1984, ruling of the Customs Service banning all further importation of blends or mixtures of sugar if the mixture is to be separated or in any way altered after importation. Moreover, imports of sweetened cocoa are not resulting in material interference, nor are they practically certain to do so, through substitution for domestically produced sweetened cocoa. The current level of imports, while representing a significant growth over pre-quota levels, has not reached, and is not likely to reach, a level that could have a material impact on the sugar price-support program. Estimates of the maximum possible price effect of recent increases in import levels of sweetened cocoa indicate that such imports may have resulted in less than one-tenth of a cent reduction

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50/ Posthearing submission of the USDA, response to question 56.

in U.S. sugar prices. 51/ Such a minimal effect on prices, in turn, has only a slight impact on the domestic sugar program. Further, given current levels of consumption of sweetened cocoa, even if imports continue to increase, their effect on price is not practically certain to result in material interference with the price-support program. 52/

Similarly, in the case of pancake flour and other flour mixtures, USDA has identified extraction as the means by which imports may materially interfere with the price-support program. 53/ Again, extraction as a means for avoiding the quota system should be adequately prevented as a result of the November 6, 1984, Customs Service ruling. Furthermore, substitution for domestic production is not likely. While imports have increased, the level of imports has not changed significantly since 1980. 54/ In addition, the

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51/ Report at A-52. It should be stressed that our estimates are the maximum possible effect on price. There is a significant gap between this maximum estimate and the minimum estimate, which is also provided. Maximum estimates are less likely to be correct for relatively more processed products where the assumption that the imported product is a perfect substitute for the domestic product is less likely to be correct. This would be the case, for example, if there is no domestic production of a similar product or if the sugar content of the domestic product is different from that of the imported product. An assumption of lesser substitution is also more warranted when the imported products are highly differentiated from domestic products, such as by quality or brand name or other attributes unrelated to sugar content. Maximum estimates are more likely to be correct for imported products, such as sweetened cocoa, that are used in the production of processed foods and are typically very similar to the domestic product. These imported products are, therefore, more likely to be displacing domestic products on a pound-for-pound basis and more directly affecting the sugar price-support program. Moreover, the estimates are based on the assumption that increased imports above historic trends are not the result of increased demand. Such an assumption is less valid for certain categories of processed food products in which new products are being introduced, creating or responding to, new demand. These new food products typically are classified in "basket" categories such as edible preparations n.s.p.f. and candy and other confectionery.

52/ Id. at A-18, Table 7.

53/ Posthearing submission of the USDA, response to question 56.

54/ Report at A-22, Table 9.

increased level of imports corresponds to increased levels of U.S. production and consumption. 55/ Therefore, it is far from clear that increased imports are displacing U.S. production and are not merely in response to increased U.S. demand. Finally, the current price impact of these imports is negligible and it is unlikely that imports will increase to such a level so as to have a significant effect on U.S. sugar prices. 56/ In this context, it is noteworthy that the emergency quota on these imports, effective January 29, 1985, had not been filled as of August 16, 1985. 57/

The edible preparations n.s.p.f. that are the subject of our negative determination cover a wide range of products. USDA is concerned that the sugar content of these products could directly displace use of domestic sugar through product manipulation or extraction from dry mixtures. 58/ In regard to certain beverage bases and sugar blends, we have found such concern to be well founded and have determined that imports of such products are practically certain to result in material interference with the price-support program. 59/ However, we reached a negative determination as to the remaining products in this basket category.

For all products containing less than 10 percent sugar, the possibility of any impact on the sugar program is extremely remote. Moreover, increased imports of many of these products appear to be in response to increased demand for ethnic foods for which there is little domestic production. 60/

55/ Id. at A-20.
56/ Id. at A-52, Table 25.
57/ Id. at A-21.
58/ Posthearing submission of the USDA, response to question 56.
59/ For Commissioner Rohr's views, see notes 5, 7, 35, 42, supra.
60/ This category of articles includes, for example, egg rolls, ramen (oriental soup mixes), chile con carne and frozen pizzas. See Report at App. G, Table A-2.

Therefore, displacement is not a major concern in this area. Moreover, given the low sugar content of these items and the low volume of trade, it is extremely unlikely that imports have had, or will have, any effect whatsoever on the domestic price for sugar. 61/

For certain minced seafood preparations and ground or masticated coconut meat or juice, available information indicates that there is no domestic production of these products and, therefore, nothing to displace. 62/ Further, the level of imports is not significant, nor has it increased rapidly subsequent to the imposition of the sugar quota. 63/ 64/

For cake decorations, the total volume of imports has been small and, given market limitations, is not likely to reach a level that would result in any measurable impact on U.S. sugar prices or the price-support program. The remaining products (white chocolate, candy coatings, canned fruit pie fillings, etc.) are not of the type that USDA is principally concerned with, i.e., dry mixtures. 65/ These products are all at least semiprocessed products from which extraction is not feasible. In addition, these products are traditional items of trade for which there is little domestic production. Further, they typically have only 40 to 60 percent by dry weight of sugar. 66/

61/ Id.
62/ Id. at A-27-A-28.
63/ Id.
64/ Chairwoman Stern notes that there are other particular products in TSUS item 183.05 that the President may wish to exclude from an affirmative finding. For example, Milo, a beverage base composed of malt, milk solids, sugar, and cocoa manufactured by blending of other ingredients into a wet mix and co-drying under vacuum, is a traditional item of commerce with a sugar content of 18 percent which apparently is not in any way likely to contribute to material interference with the sugar price-support program. Milo is an ethnic specialty food popular with West Indian immigrants for which there is no comparable domestic product and, therefore, no possible displacement of demand for U.S. sugar. Exclusion of Milo would not impair the effectiveness of the recommended remedy.
65/ Posthearing submission of the USDA, response to question 1.
66/ Report at App. G, Table A-2.

Imports of molasses, as defined in TSUS item 155.35, are also subject to our negative determination. The volume of imports has fluctuated irregularly since 1980, but the market penetration of imports has remained stable. 67/ The articles included in TSUS item 155.35 contain nonsugar solids and are used primarily for their unique flavor and aroma, and not for their sugar content. 68/ Moreover, extraction of sugar is not economically feasible. Finally, the level of apparent consumption of these articles is limited to approximately 40,000 short tons, a level that is not practically certain to cause material interference with the price-support program, even if imports increase their market share. 69/

Confectioners' coatings are also subject to our negative determination. USDA stated that imports of confectioners' coatings could materially interfere with the price-support program by displacement of demand for U.S. sugar through increases in the volume and market share of imports. 70/ While imports of confectioners' coatings have risen rapidly since the imposition of the sugar quota, domestic shipments and apparent consumption have also increased rapidly. 71/ Thus, at least some of the increases in imports are due to increased U.S. demand and, therefore, may not be displacing U.S. production. Further, current import levels are not high enough to have a significant impact on the price-support program and are not practically certain to do so given current trends in imports. Our estimate of the maximum possible effect of recent increases in imports on U.S. sugar prices revealed

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67/ Id. at A-31, Table 12.
68/ Id. at A-30.
69/ Id. at A-29, Table 11.
70/ Posthearing submission of the USDA, response to question 56.
71/ Report at A-32.

less than .05 cent decline in prices for U.S. sugar. 72/ Such an effect is no more than slight interference with the program.

Candy and other confectionery is another basket category of articles and it includes a wide variety of confections or sweet meats ready for consumption, but does not include sweetened chocolate. It does include chocolates that contain other items. USDA apparently no longer believes that imports of candy and other confectionery pose a threat to the domestic price-support program. USDA stated that their concern is with those products that are being imported principally for their extractable sugar content or for their ability to directly substitute for sugar use. 73/

USDA has indicated that they do not believe that highly processed products ready for consumption pose a threat to the domestic price-support program. We agree. Imports of many of these articles satisfy a distinct market and often do not directly displace U.S. production. Much of the increase in imports can be attributed to new products or high quality products which do not compete directly with domestic products. They are frequently of similar or higher price than comparable domestic products and their increased importation appears to be attributable to many factors other than their sugar content. Therefore, it is extremely difficult to trace any change in the status of the price-support program to increases in these imports. Further, there is a limit to the expansion of imports in this category as domestic production and shipments are stable and many of the products carry brand name identification with the consumer. Additionally, it would be anomalous to determine that imports in this category (for example, chocolate bars

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72/ Id. at A-52, Table 25.
73/ Posthearing submission of the USDA, response to question 33.

containing nuts) are materially interfering with the program when other products (for example, plain chocolate bars) are not even subject to investigation. 74/

While we calculated a maximum effect on U.S. prices due to increased imports of these articles of as much as approximately 0.5 cent, the scope of this category is large, and the possible expansion of imports is subject to constraints, such as more complex production processes and brand name identification, that are not present for beverage bases and sugar blends. 75/ Moreover, our estimate assumes a one-to-one displacement of demand for U.S. sugar that is less valid when dealing with highly processed retail articles with brand name identification and when some of the increased imports are attributable to increased demand for imported confectionery or for high quality confectionery for which there may not be a similar domestic product. A purely econometric analysis of import volumes in this category is thus inappropriate. Therefore, we find it extremely unlikely that the effect of imports of these articles has been as much as 0.5 cent and that the real effect is much less.

For edible preparations of gelatin, the available data were extremely sparse. That data did reveal, however, that there has been significant growth in the imports of edible preparations of gelatin since the imposition of the sugar quota. The level of imports in terms of value, however, has not yet

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74/ The scope of the Commission's investigation is limited to those articles listed in the President's letter. See Report at App. A. The Commission, however, in considering the possible causes of problems with the domestic price-support program may consider the impact of imports not subject to the investigation. In this context we have estimated the price impact of increased imports of sweetened chocolate to be 0.24 cent. Economics Memorandum EC-I-346 at Table 3 (Sept. 25, 1985).

75/ Report at A-52, Table 25.

reached $7 million and is estimated to be 12.7 million pounds for fiscal year 1984-85. 76/ Thus, even though the increase in imports may be due to attempts to circumvent the sugar quota, such circumvention has not reached a significant level in terms of its impact on U.S. sugar prices or the price-support program. 77/ We estimated the price effect of increased imports of gelatin at .04 cent. 78/ Moreover, there does not appear to be the same kind of unlimited potential growth for imports of gelatin as there is for imports of beverage bases.

Imports of edible preparations containing over 5.5 percent by weight of butterfat and not packaged for retail sale are subject to section 22 import restrictions designed to protect the price-support program for milk. 79/ Since the President stated in his request to the Commission that the investigation regarding sugar-containing articles is to consider only those articles not covered by other import restrictions, this category is not within the proper scope of the investigation and no determination is appropriate. 80/

With regard to mixed feed products, USDA was concerned with the potential for extraction of sugar from imported feed products. As noted previously, the Customs Service ruling on extraction should eliminate any threat to the price-support program by means of extraction of sugar from these imports. Further there is no known domestic production of animal feeds containing sugar; therefore, substitution and displacement are also not applicable.

76/ Id. at A-40, Table 18.
77/ Demonstration of intent to avoid the quota is not sufficient for an affirmative finding, although it may be relevant in considering future import trends. The principal focus of a section 22 investigation is whether imports of certain articles are causing, or are practically certain to cause, material interference with the price-support program.
78/ Report at A-52, Table 25.
79/ Id. at A-41.
80/ Id. at App. A.

IX. Remedy

Section 22(b) permits the President to impose such import fees (up to 50 percent ad valorem) or quantitative restrictions (up to 50 percent of the imported articles entered or withdrawn from warehouse during a representative period) as are necessary in order that the imported articles will not render or tend to render ineffective, or materially interfere with, the USDA price-support program. 81/ The President cannot impose both fees and quotas on the same articles, but he can impose fees on some articles and quotas on others. 82/

We conclude that quotas are more appropriate than fees even though, as a general rule, we prefer fees because they tend to distort trade less. In the present case, imposition of the maximum fee of 50 percent ad valorem would still not raise the price of most imported articles which are the subjects of our affirmative determination to levels sufficiently high that they would not be attracted to the U.S. market because of the disparity between U.S. and world sugar prices. Even if the world price suddenly rose to a level where the maximum fee would be adequate, we question, in view of the recent volatility of world prices, whether a fee would be appropriate in the absence of some assurance that world prices would not quickly decline.

We recommend that quotas should be set at 50,000 short tons per year. Imports of these beverage bases and sugar blends occurred in significant volumes prior to the imposition of quotas on sugar. Moreover, the volume of imports was approximately 40,000 short tons in 1984. 83/ Given that we have determined that imports of these articles pose a threat to the program if

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81/ 7 U.S.C. § 624(b).
82/ United States v. Best Foods, Inc., 47 Cust. & Pat. App. 163 (1960).
83/ Report at App. G, Table A-2.

they are allowed to grow without limitation, we believe that the "representative period" should be the period prior to the imposition of emergency quotas on these items. The 50,000 short ton limit is a level that will preserve historical trade but will prevent material interference with the price-support program due to imports of these sugar-containing items. 84/

84/ Commissioner Rohr also notes that he believes that the 50,000 short ton limitation is a sufficient reduction from what he believes is the likely current level of importation to eliminate the material interference caused by these imports to the sugar price-support program.

STATEMENT OF VICE CHAIRMAN LIEBELER

I. INTRODUCTION

On the basis of the information developed in Certain Articles Containing Sugar, Inv. No. 22-48, I determine that sweetened cocoa, confectioners' coatings, candy and other confectionery, edible preparations of gelatin, pancake flour and other flour mixes, and certain other edible preparations, provided for in items 156.45, 156.47, 157.10, 182.90, 183.01, 183.05 of the Tariff Schedules of the United States (TSUS), are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the USDA price support program for sugarcane and sugar beets. I make a negative determination with respect to the remaining articles covered by this investigation (edible molasses TSUS 182.92, mixed feed products TSUSA 184.7070, and edible preparations containing over 5.5 percent butterfat, TSUS 182.92).

To remedy this material interference, I am recommending fees on the articles on which I voted affirmative. The price support program on sugarcane and sugar beets has already distorted the market for sugar and sugar containing articles.[1] The restrictions that I now recommend to the

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[1]The International Trade Commission has no authority over Department of Agriculture (USDA) price support programs. I am aware that price support programs such as the sugar program generally reduce social welfare in the United States and globally. See Tarr, D. & Morkre, E., Aggregate Costs to the United States of Tariffs and Quotas on Imports chapter 4 (1984). Nothing herein should be construed as support for such programs. These programs are enacted by Congress. The Commission's role is limited to assessing the effect of imports on the USDA's programs and recommending appropriate relief. Section 22 of the Agricultural Adjustment Act of 1933, as amended, 7 U.S.C. 624 (1984).

President have been designed to reduce to the greatest extent possible the national welfare costs inherent in the sugar support program. To do this, I now recommend that the President institute a broad array of fees on sugar containing articles.

II. EFFECT OF IMPORTS OF SUGAR CONTAINING ARTICLES

Congress instituted the current price support program for raw sugar in 1981. If sugar containing products are being imported into the United States under the same conditions and in the same quantities as when Congress last reviewed the sugar support program, then these imports cannot render ineffective or cause material interference with the sugar support program.[2]

Since January 1982, the world price for raw sugar has declined, increasing the gap between the world and U.S. prices.[3] As a result, the price of foreign produced sugar containing articles relative to those produced domestically. Over time, there has been and there will continue to be a trend toward increased production of sugar containing articles abroad

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[2]Certain Tobacco, Inv. No. 22-47, USITC Pub. No. 1644 at 29 (Feb. 1985) (Statement of Vice Chairman Liebeler) ("It is incumbent upon the Commission to assume that the level and condition of imports at the time of the last legislative change were within the contemplation of Congress, and therefore can not constitute a material interference to the program unless Congress indicates otherwise.")

[3]Report at A-45, Table 20.

in order to obtain lower cost sugar and thereby reduce the total cost of producing sugar containing articles. Domestically produced sugar containing articles will be unable to compete with foreign produced sugar containing articles. Demand for domestic sugar will therefore drop. As a result, either forfeitures will occur or the USDA will have to tighten the quota on raw sugar.

The available data show that imports of several categories of sugar containing articles have increased substantially since 1981.[4] Such imports are practically certain to increase even further in the absence of some form of import restriction as more production of sugar containing articles moves overseas. Thus, imports of sugar containing articles are practically certain to enter the U.S. under different conditions and in higher quantities than in 1981 when Congress instituted the program.[5]

In order to prevent forfeitures of sugar the USDA would have to restrict the level of raw sugar imports further. Thus,

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[4]The estimated increase in imports of sugar containing articles due to the price support program on raw sugar is provided in the Report at A-50, Table A-50.

[5]See Prehearing Brief, USDA at 2 ("The threat to the Department's sugar price support program will not disappear as long as a price differential between world and domestic market sugar of the current magnitude (18 cents per pound) exists. This differential encourages importers and exporters alike to seek out whatever means possible to market world priced sugar at U.S. domestic prices.")

the second question is whether the adjustment of the quota by the USDA would either render or tend to render ineffective, or materially interfere with, the program. By lowering the quota level, the USDA could achieve the program objective of meeting the market stabilization price without purchasing any sugar.[6] Thus, the program would not be rendered ineffective by increased imports of sugar containing articles.

There appears to be another important aspect to the sugar support program, the transfer of wealth abroad.[7] The USDA has chosen to support the price of sugar by an import quota. It has also sought to achieve this objective with the least restrictive quota possible in the sugar market. Increases in imports of sugar containing articles, although they would reduce consumer welfare cost, would materially interfere with this objective of the program by forcing USDA to significantly

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[6] In the extreme case, with production costs assumed equal and transportation costs assumed to be zero, all sugar containing articles would be produced overseas. The quota on raw sugar imports would move toward zero and the U.S. government would be buying up all domestic production of sugar. Because production costs are not equal and transportation costs are not zero, in addition to the fact that there will always remain some domestic demand for raw sugar as raw sugar, there would never be 100% forfeitures. If sufficient demand for raw sugar remained, there might be no forfeitures at all.

[7] For instance, the same level of benefit could be provided to the producers of raw sugar with a direct subsidy. Such a policy would make the sugar program an on-budget expense, but it would reduce the cost to the United States as a whole for the program.

tighten the quota.

III. REMEDY RECOMMENDATION

In evaluating potential remedies, I seek to choose the least costly way of allowing the USDA to achieve its program objectives. I have determined that a schedule of tariffs on certain sugar containing articles would be the least costly solution to the problem.

Quotas allocated to foreign interests are generally viewed as a nation's most expensive form of import relief, with consumers suffering costs far in excess of the value of the relief to the domestic industry protected by the quota.[8] Quotas may, however, be justified if the country imposing the quota receives sufficiently valuable compensation for its transfer of quota rents to foreign interests. Tariffs, although they also impose welfare costs, are generally preferred to quotas because then the domestic government, rather than foreign firms, receives the rents created by the relief.

The fact that the U.S. has chosen to use a quota to bolster the price of sugar instead of a tariff implies that the U.S. believes that it is benefitting more by transferring the quota rents to foreign countries than it would by collecting tariff revenues. Any restriction in the quota allocation because of

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[8] See e.g. Tarr & Morkre, _supra_ note 1.

increased imports of sugar containing articles would cost the U.S. by decreasing what it sought to transfer. In order to maintain this program of transfers to selected foreign interests at current levels, it is necessary to impose fees on sugar containing articles.[9] Our Office of Economics has calculated the fees on sugar containing articles that would minimize the welfare cost of restricting the imports of sugar containing articles given a sugar price supported by quotas of approximately $.22 per pound.[10] These tariffs provide what economists call the "second best" solution,[11] and are as follows:

1. TSUS 156.45 - Sweetened Cocoa 13%
2. TSUS 156.47 - Confectioners' coatings 8%
3. TSUS 157.10 - Candy and other confectionary, nspf 5%

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[9] If the U.S. seeks to increase the amount it is transferring, equivalent quotas could be imposed and allocated to selected countries. These equivalent quotas are not provided because additional information not readily ascertainable would be required to make these estimates.

[10] See Office of Economics Memorandum dated October 8, 1985, attached as Exhibit A.

[11] The concept of the "second best" recognizes that the sugar support program reduces efficiency. However, given a sugar program, the "second best" solution minimizes the efficiency cost of the program. The second best solution in the instant case involves moving domestic production of sugar containing articles back toward the levels that would have occurred in the absence of the support program on raw sugar. Thus, it is necessary to impose differing tariffs on the various products.

4. TSUS 182.90 - Edible preparations of gelatin 15%

5. TSUS 183.10 - Pancake flour and other mixes including refrigerated doughs 6%

6. TSUS 183.05 - Edible preparations, nspf 6%

The USDA argued that fees could not work because of the large price differential between the U.S. and world price for sugar. The USDA argued that the fees could not be set high enough to sufficiently restrict imports of sugar containing articles. This is incorrect. The large amount of value added to the above products permits the fees to be set at a level far below the 50% maximum allowed by statute.[12]

The above recommendations are approximations. If there is additional information about particular products within a given category, adjustments in the tariff should be made. For example, if the cross elasticity of demand for domestic products vis-a-vis a foreign sugar containing article is zero (i.e. no

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[12]The statute allows the President to increase the tariff on sugar containing articles by an amount no greater than 50 percent of their value. Although the U.S. price of sugar is approximately seven times the world price, sugar constitutes a small portion of the value of most sugar containing articles. As a result, the recommended tariffs are well within the allowable range. It should also be emphasized that the tariffs recommended are absolute levels rather than increases.

domestic sugar is being displaced by importation of the foreign product), then the appropriate tariff on the sugar containing product is zero. Thus, if the importation of Swiss chocolate does not decrease the demand for domestic chocolate, then a zero tariff on Swiss chocolate would be proper.

If my assumptions about the purpose of the price support program are incorrect and there is no intent to transfer wealth abroad, then the optimal tariffs on sugar containing articles should be zero. Tariffs on the sugar containing articles would simply cause a distortion in the market for these products with no gain elsewhere. Because the USDA can adjust the quota level on raw sugar to maintain its price support level, this would be the welfare maximizing policy. Sugar containing articles would be cheaper to consumers and sugar would remain at the same price.

For the purpose of this investigation, however, I have assumed that the U.S. is benefitting in some manner from the transfer of quota rents abroad. I, therefore, recommend that the tariff levels calculated by the Commission's Office of Economics be imposed on the six TSUS categories that I have determined are practically certain to materially interfere with the sugar support program.[13]

[13] My negative determination with respect to edible molasses and animal feeds is based on the fact that there has been no substitution toward foreign production of these products. As for edible preparations containing over 5.5 percent butterfat, I agree with the majority that this product is not part of the investigation.

EXHIBIT "A"

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

October 8, 1985 EC-I-376

MEMORANDUM

TO: Vice Chairman Liebeler

FROM: Director, Office of Economics

SUBJECT: Welfare analysis of tariffs on products containing sugar.

Attached is a copy of the analysis you requested on the welfare effects of imposing tariffs on the import of products containing sugar. It was done by Richard Boltuck, of our staff.

John W. Suomela

Attachment

cc: The Commission
Director, Office of Operations
Director, Office of Investigations

October 8, 1985

Optimal Downstream Product Market Tariffs in the Presence of a Primary Product Support Price Sustained through an Import Quota

by Richard Boltuck, International Economist

I. Introduction.

The Commission has recently confronted the issue of whether tariffs should be imposed on imports of products that embody sugar, since these imports may be frustrating the price support program sustained by quotas on imports of sugar. The Agriculture Department is committed to a support price for sugar of 22 cents per pound, 18 cents above the world price. To maintain the support price, the Agriculture Department each year places country quotas on sugar imports. Since imports of such downstream products as sweetened tea and candy conceivably might result in costly sugar forfeitures under the program, the question was raised whether such imports should also be restricted.

This note addresses the related question of how import restrictions on downstream products would affect the national welfare. It is found that downstream product tariffs (or equivalent quotas) would be nationally desirable. In addition, a practical method is suggested for calculating the optimal tariff rates on the downstream products.

The sugar quotas create a valuable transferrable asset, namely the right to export sugar to the United States above the prevailing world price. One effect of downstream product import restrictions would be to increase the value of the sugar quotas. Thus, the desirability of such restrictions depends crucially on whether the value of newly created sugar quota rights enriches American residents. Since the U.S. Government has allocated the quota rights primarily to relatively poor sugar exporting countries as a form of foreign aid, creation of new rights would alleviate part of the burden on American taxpayers to otherwise finance more direct forms of assistance to these countries. With the exception of Australia and South Africa which in the past year received 7.9 percent and 2.2 percent respectively of the allocated quota, the recipient nations may be classified as less developed countries.

II. Geometric analysis.

Notation.

P_s = Support price of sugar

P_w = World price of sugar

D_d = Domestic demand curve for sugar

S_d = Domestic supply curve for sugar

S_w = World export supply curve for sugar facing the United States

q = Volume of quota needed to support P_s

P_{pw} = World price in downstream product market

P_{pt} = Tariff-augmented world price of the downstream product

D_{pd} = Domestic demand curve for downstream product

S_{pd} = Domestic supply curve for downstream product

S_{pw} = World excess supply of downstream product facing U.S.

Q_d = Quantity of sugar demanded

Q_s = Quantity of sugar supplied by domestic producers

Q_{pd} = Quantity demanded in downstream product market

Q_{ps} = Quantity supplied by domestic producers in downstream product market

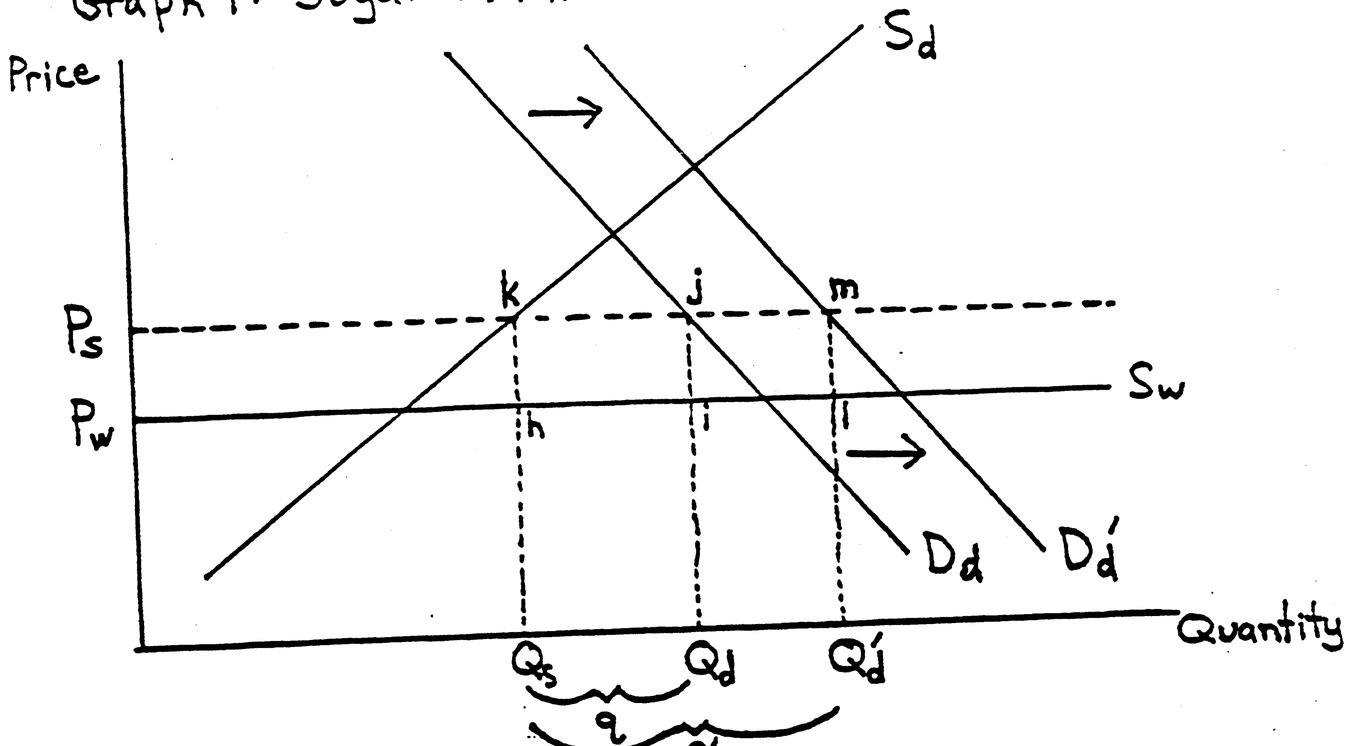
A "prime" superscript indicates a new position of a curve or a new value of a variable after tariffs are imposed on the downstream products.

Graphs 1 and 2 illustrate the consequences of imposing a tariff on the downstream product. The world supply curves for both sugar and the downstream product are drawn as horizontal lines under the assumption that world export supply of each is infinitely elastic.

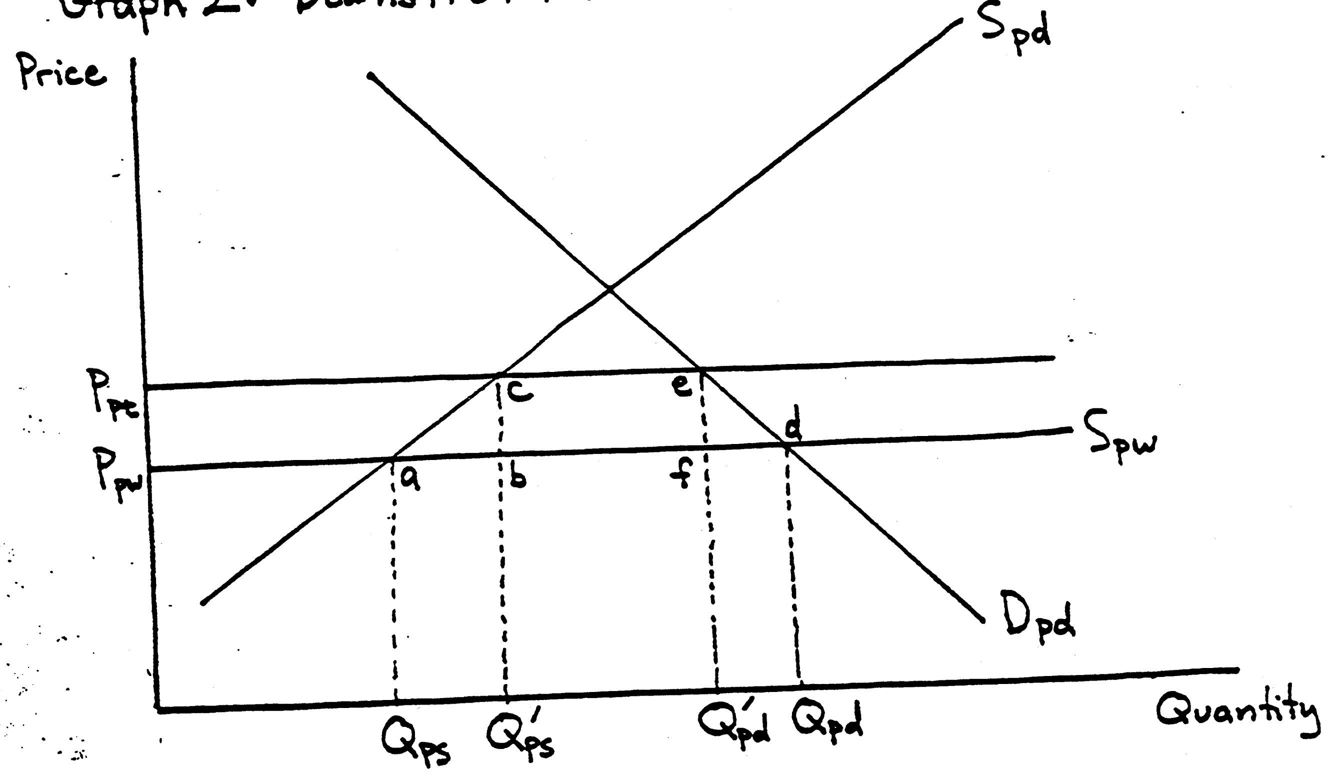
The tariff raises the downstream product price to both domestic producers and consumers from P_{pw} to P_{pt}, as depicted in graph 2. This in turn encourages consumers to reduce consumption of the downstream product from Q_{pd} to Q'_{pd}, while domestic suppliers expand production from Q_{ps} to Q'_{ps}. This expansion of domestic supply causes the domestic demand for sugar to increase, which is shown as a shift in the position of the sugar demand curve from D_d to D'_d in graph 1. Since the sugar price in the domestic market remains at the support price, P_s, domestic sugar producers remain unaffected. Thus, the entire increase in domestic sugar use is accounted for by an increase in imports. The increase in imports can only take place if the sugar quota in increased from q to q'.

The level of the quota in the sugar market is not the true policy variable set by the Agriculture Department. The true policy variable is the sugar support price, P_s. Thus, once the support price is chosen and it is decided to use a quota to achieve it, the volume of the quota is implied directly by demand and supply conditions. The possibility, remains, however, to adopt tariffs in the markets for downstream products.

Graph 1: Sugar Market



Graph 2: Downstream Product Market



Once a support price has been established in the market for sugar, introducing a tariff into the downstream product market has two types of effects on national welfare and income distribution.

Effect 1: The new tariff raises the price in the downstream product market to both domestic producers and consumers relative to the world price, P_{pw}. This causes a deadweight welfare loss measured in dollars by the sum of the triangular shaped regions abc and def in graph 2. Tariff revenue generated equals rectangle bcfe.

Effect 2: As the domestic demand for sugar increases following imposition of the tariff in the downstream product market, the value of the quota rights grows from the rectangle hijk to the larger rectangle hlmk in graph 2. The price P_s measures the value to American society of each additional unit of sugar used. If the cost to U.S. residents of each additional unit of domestic sugar consumption is just the world price, P_w, then the downstream product tariff induces a welfare gain in the sugar market. This gain is equal to the increased value of the quota rights (rectangle ilmj). The gains in welfare in this market will exceed the welfare cost in the downstream market, described as effect 1 above, as long as the tariff levied on imports of the downstream product is kept sufficiently small.

In fact, U.S. residents can't buy sugar at the world price because the quota rights are allocated to foreign sugar exporters. Some proportion of the value of these quota rights, however, probably should be counted as part of U.S. income since most of the rights are distributed as a form of foreign aid to sugar exporting countries. Thus, increases in the value of the quota rights can reduce the amount of U.S. direct payments of foreign aid deemed necessary to sugar exporting countries.

III. Algebraic analysis of the optimal downstream product tariff.

Additional notation.

dW = Change in national welfare surplus

a = Fixed volume of sugar used in production of one unit of downstream product

b = Proportion of incremental quota rents accruing to domestic residents

s = Import penetration ratio in downstream product market

N = Elasticity of domestic demand in downstream product market

E = Elasticity of domestic supply in downstream product market

$t = (P_{pt} - P_{pw})/P_{pw}$ = Tariff rate on downstream product

Domestic ownership of incremental quota rents.

All demand and supply curves are treated as linear. Further, it is again assumed that domestic residents are able to buy sugar at the world price, but this will be relaxed later. Finally, the downstream product is assumed to be produced under constant returns to scale using a fixed proportions technology. That is, the amount of sugar required per unit of output for each downstream product (the parameter a) does not depend on the scale of production or the relative prices of materials, labor, and capital. Industry experts verify that the assumption of fixed proportions is fairly descriptive for most downstream products currently under consideration. Marginal production costs are assumed to rise with increases in output.

If a specific tariff on the importation of the downstream product is gradually increased in equal increments, the deadweight loss in that market increases at an increasing rate, while the welfare gain in the sugar market occurs at a constant rate. Therefore, to maximize the net welfare gain, the tariff must be selected that maximizes the difference between the effect 1 welfare loss and the effect 2 welfare gain. This implies the basic optimality condition

$$(1)\quad 0 = dW/dt = \partial W/\partial t\Big|_{\text{downstream market}} + \partial W/\partial t\Big|_{\text{sugar market}}$$

On the right hand side (RHS) of (1), the first term measures the rate of effect 1 loss, and may be expanded in terms of the tariff rate, t, as

(2) $\partial W/\partial t\Big|_{\text{downstream market}} = (NQ'_{pd} - EQ'_{ps})P_{pw}t/(1 + t)$

Similarly, the second term on the RHS of (1) measures the rate of effect 2 welfare gain in the sugar market and may be expanded in terms of t as,

(3) $\partial W/\partial t\Big|_{\text{sugar market}} = a(P_s - P_w)EQ'_{ps}/(1 + t)$

Equations (1), (2), and (3) may be combined and solved for the optimal tariff, t*, yielding

(4) $t^* = a(P_s - P_w)EQ'_{ps}/[(EQ'_{ps} - NQ'_{pd})P_{pw}]$

<u>Partial domestic recapturing of quota rents</u>.

If domestic residents recapture only a fraction of the value of any increment in quota rights, equation (3) must be modified to reflect this restriction:

(3') $\partial W/\partial t\Big|_{\text{sugar market}} = ab(P_s - P_w)EQ'_{ps}/(1 + t)$

and the adjusted optimal downstream tariff, t**, can be solved by combining equations (1), (2), and (3'):

$$(4')\quad t^{**} = ab(P_s - P_w)EQ'_{ps}/[(EQ'_{ps} - NQ'_{pd})P_{pw}]$$

Global, rather than national, welfare would be most enhanced by solving for t** with b = 1, since in this case it doesn't matter whether domestic or foreign residents benefit from the increased sugar quota value.

Problems in determining demand and supply elasticities.

There is usually no reliable information about whether the downstream domestic demand or supply curve is more elastic. If we assume they are equally elastic, (4') may be simplified by eliminating all elasticity variables entirely, yielding

$$(4'')\quad t^{***} = ab(P_s - P_w)(1 - s)/[P_{pw}(2 - s)],$$

where s is the import penetration ratio in the downstream market.

An expression such as (4'') is usually easy to estimate with available data.

Conclusion.

The analysis contained in this paper demonstrates that the optimal downstream product tariff depends positively on the premium of the sugar support price over the world price, on the sugar content per unit of the downstream product, on the rate of domestic recapture of quota rent expansion, and on the level of domestic production in the downstream product industry following imposition of the tariff. The optimal tariff rate depends negatively on the world price of the downstream product and, if downstream demand and supply elasticities are equal, on the import penetration ratio in the downstream product market.

The preceding analysis would also hold if quotas were imposed instead of tariffs in the downstream product market.

Appendix: Calculated Values of Optimal Tariff Rates

This appendix reports actual calculated optimal downstream tariff rates using equation (4'') on page 9 of the preceding note together with data contained in the Report to the Commission: Investigation No. 22-48, Certain Articles Containing Sugar. Equation (4'') is chosen in preference to the more exact equation (4') due to lack of knowledge about demand and supply elasticities in downstream product markets. In most cases, appropriate data for the past year were not fully reported but could be estimated from information in the Report. In one case, an ITC staff industry expert was consulted for an opinion regarding an appropriate range for a parameter value. Though data limitations adversely affect the precision of the estimates, there is no reason known to the author that the calculated values should either systematically overestimate or underestimate the true optimal tariff rates.

Two calculations of t*** are made for each item, first under the assumption that the full value of all newly created sugar quota rights accrues to American residents, and second under the assumption that the recapture rate is 90 percent. The latter rate is selected so as to exclude the quota rights distributed to Australia and South Africa.

Further, it is assumed for all items that the premium of the domestic price of sugar over the world price is 18 cents, as has recently been the case.

I. TSUSA Item No. 156.45: Sweetened cocoa.

<u>Assumptions</u>

$a = .64$

$s = .117$

P_{pw} = 43 cents/lb.

<u>Optimal Tariff</u>

$t_{b=1}$*** = 12.56 percent

$t_{b=.90}$*** = 11.30 percent

<u>Current Tariff</u>

Column 1: Free

Column 2: 40 percent

II. TSUSA Item No. 156.47: Confectioners' coatings.

<u>Assumptions</u>

$a = .50$

$s = .071$

P_{pw} = 53 cents/lb.

<u>Optimal Tariff</u>

$t_{b=1}$*** = 8.18 percent

$t_{b=.90}$*** = 7.36 percent

<u>Current Tariff</u>

Column 1: 2.5 percent

Column 2: 35 percent

GSP and CBERA: Duty free

III. TSUSA Item No. 157.10: Candy and other confectionary, nspf.

Assumptions	Optimal Tariff
$a = .56$	$t_{b=1}$*** = 4.92 percent
$s = .10$	$t_{b=.90}$*** = 4.43 percent
P_{pw} = 97 cents/lb.	**Current Tariff**
	Column 1: 7 percent
	Column 2: 40 percent
	GSP and CBERA: Duty free

IV. TSUSA Item No. 182.90: Edible preparations of gelatin.

Assumptions	Optimal Tariff
$a = .80$	$t_{b=1}$*** = 15.17 percent
$s = .06$	$t_{b=.90}$*** = 13.65 percent
P_{pw} = 46 cents/lb.	**Current Tariff**
	Column 1: 6 percent
	Column 2: 25 percent
	GSP and CBERA: Duty free

V. TSUSA Item No. 183.01: Pancake flour and other flour mixes including refrigerated doughs.

Assumptions	Optimal Tariff
$a = .30$	$t_{b=1}$*** = 6.42 percent
$s = 0.004$	$t_{b=.90}$*** = 5.78 percent
P_{pw} = 42 cents/lb.	**Current Tariff**
	Column 1: 10 percent
	Column 2: 20 percent
	GSP and CBERA: Duty free

VI. TSUSA Item No. 183.05: Edible preparations, nspf.

No information is contained in the investigation Report to indicate an appropriate value for the import penetration ratio, s. The ITC staff industry expert covering this item suggested the actual rate is less than 10 percent of the domestic market. For this reason, optimal tariff rates are reported under assumptions of s = 0 and s = .10. This range should bracket the actual values for s. The results indicate that the optimal tariff is not very sensitive to changes in this parameter within the range considered.

<u>Assumptions</u>

$a = .32$

$s1 = 0;\ s2 = .10$

$P_{pw} = 46$ cents/lb.

<u>Optimal Tariff</u>

$t_{b=1;s1}{}^{***} = 6.26$ percent

$t_{b=1;s2}{}^{***} = 5.93$ percent

$t_{b=.90;s1}{}^{***} = 5.63$ percent

$t_{b=.90:s2}{}^{***} = 5.34$ percent

<u>Current Tariff</u>

Column 1: 10 percent

Column 2: 20 percent

GSP and CBERA: Duty free

STATEMENT OF COMMISSIONER ALFRED ECKES

Introduction

The President asked the Commission to determine, pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), whether certain articles containing sugar derived from sugarcane or sugar beets, not within the scope of other section 22 restrictions, and provided for in items 155.35, 156.45, 156.47, 157.10, 182.90, 182.92, 183.01, 183.05, and 184.7070 of the Tariff Schedules of the United States Annotated (TSUSA), are being or are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price-support program of the Department of Agriculture for sugarcane and sugar beets. The President took emergency action pursuant to section 22(b) and imposed emergency quotas on certain of these articles as set forth in Proclamation No. 5294 (50 F.R. 4187, January 30, 1985). These emergency quotas were modified, effective May 19, 1985, in Proclamation No. 5340 (50 F.R. 20881, May 21, 1985). The full text of the President's letter and proclamations are set forth in appendix A to this report.

For reasons set forth below, I have determined that--

(1) sweetened cocoa containing over 10 percent by dry weight of sugar, provided for in TSUS item 156.45;

(2) certain pancake flour and other flour mixes containing over 10 percent by dry weight of sugar, provided for in TSUS item 183.01, except those not principally of crystalline structure or not in dry amorphous form, that are prepared for marketing to the retail consumers in the identical form and package in which imported;

(3) certain edible preparations containing over 10 percent by dry weight of sugar, provided for in TSUS item 183.05, except--

(a) cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections;

(b) finely ground or masticated coconut meat or juice mixed with sugar; and

(c) articles within the scope of item 183.0505, minced seafood preparations, and containing 20 percent or less by dry weight of sugar;

(4) certain confectioners' coatings containing over 10 percent by dry weight of sugar, provided for in TSUS item 156.47; and

(5) certain edible preparations of gelatin containing over 10 percent by dry weight of sugar, provided for in TSUS item 182.90;

are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price-support program for sugarcane and sugar beets of the U.S. Department of Agriculture.

I have further determined that all other imports subject to this investigation are not being, and are not practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program for sugarcane and sugar beets of the U.S. Department of Agriculture.

The facts in this investigation are similar in many respects to the facts in Commission investigation No. 22-46, Certain Articles Containing Sugar, which was completed in December 1983. In fact, the scope of that investigation included several of the articles covered in this investigation. 1/ In that investigation Commissioner Lodwick and I made an affirmative finding with respect to, among other things, certain sweetened cocoa and pancake flour, and made negative findings with respect to certain other products. We advised the President that certain emergency actions he had taken at that time were appropriate and should be continued.

Two events have occurred since those findings were transmitted which not only confirm their correctness but also make continuation of the President's most recent emergency actions imperative. First, the world price of sugar, which was already substantially below the domestic support price for sugar in December 1983, has declined even further and has provided an even greater incentive to import sugar-containing products made from world-price sugar. And second, and perhaps even more important, sugar and sugar-containing articles entered during crop year 1984/85, which ended September 30 of this year, exceeded the quantity which would maintain the price of domestic sugar at a level sufficient to clear the support price and resulted in the forfeiture to the Commodity Credit Corporation of 870.5 million pounds of sugar at a cost of $155 million to the taxpayers. As enunciated by Congress, the key goal of the present sugar program enacted in 1981 was that there be no forfeitures and that the program operate at no cost to the taxpayers other than for administrative expenses. The forfeitures and losses in crop year 1984/85 marked the first time since the present program was enacted that this goal has not been met. These subsequent developments can only serve to

1/ Certain Articles Containing Sugar: Report to the President on Investigation No. 22-46 . . ., USITC Publication 1462, December 1983.

underscore the certainty of the impact of imports of sugar-containing articles on the USDA program. 2/

I disagree with those of my colleagues who first divide the imports covered by this investigation into increasingly smaller segments and then conclude that import levels are too small to materially interfere with the program. They have, to use an apt common expression, lost sight of the forest for the trees. Imports of some of the articles on which they have made negative findings have increased dramatically in recent years, largely if not wholly because of the difference between the domestic support price and the world price for sugar. These trends have no other commercial explanation. Each pound of sugar represented in the increased imports of those articles thereby represents one less pound of domestic sugar purchased and further interferes with the program and increases its costs to the taxpayers. 3/

2/ I agree with the concerns expressed by USDA about the possibility that significant amounts of sugar may be extracted from imports of sugar-containing articles containing only relatively small amounts of sugar. I do not believe that the problem will necessarily be solved by the U.S. Customs Service ruling of November 6, 1984 (set forth in appendix F to the report), banning all further importation of blends or mixtures of sugar if the sugar mixture is to be separated or in any way altered after importation. Much of what is imported enters in bulk form, and the ultimate user may be several steps removed from the importer of record. In addition, such imports are often commingled with domestic blends and mixtures. As a practical matter, it appears that the ruling could be of limited effectiveness in a large number of situations.

3/ The economic analysis described on pp. A-47-52 and in appendix G of the report attempts to estimate the effects of increases in imports of sugar-containing articles on the USDA program. This analysis is based on certain assumptions and, as the analysis makes clear on page A-49, there were definite limitations in the data available for the purpose of making these assumptions. The marketplace, however, is dynamic and everchanging and does not operate on the basis of such assumptions. Such assumptions cannot take into account such factors as weather changes, dock strikes, governmental actions, currency-rate changes, and rumors. For these reasons, I do not place undue emphasis on such analyses.

I find it disturbing that several of my colleagues have made negative findings with respect to imports of several articles covered by the emergency quotas, notwithstanding the fact that such imports have increased dramatically in recent years. This marks the first time in my tenure that a majority of Commissioners have made a negative finding on a substantial quantity of imports subject to emergency action.

Sugar, the price-support program, and Presidential actions

As I stated in my joint December 1983 statement in investigation No. 22-46, sugar has been an important and controversial product in world trade for centuries. Most countries both produce and consume it, and most tend to regulate it in some manner. Only about 20 percent of world sugar production enters world markets, and such sugar is sold at the price necessary to clear the market, even if that price is below the cost of production.

The world price for sugar can be highly volatile. When world sugar production and inventories rise or fall, world prices often change exponentially while, because of government price controls, prices in consuming countries may change little if at all, at least in the short run. Word of a drought in a medium-sized sugar-growing country can, within a few days, raise the world price by several cents, which when measured against prices in recent years could be 30 percent or more. This happened in 1984 when South Africa experienced dry growing conditions.

The world price of sugar peaked at 57 cents per pound (f.o.b. Caribbean) in November 1974, 4/ but has declined almost continuously since then and was

4/ As traded on the New York Coffee & Sugar Exchange. See the Commission report on Sugar: Report to the President on Investigation No. 22-45 . . ., USITC Publication 1253, June 1982, at A-31.

under 3 cents per pound in June, July, and August 1985. 5/ However, by early October 1985, the world price had almost doubled to about 5 cents per pound. 6/ Nevertheless, it is estimated that this price is well below the cost of production of even the world's most efficient producer of sugar. 7/

There is a surplus in world sugar production, as the relatively low recent world prices indicate. World sugar production has exceeded consumption in each of the last four crop years. 8/ As a result, world sugar inventories have increased. These inventories have nearly doubled since 1980, and were 45.9 million short tons as of September 1, 1984 (1985 figures are not yet available). 9/ World inventories as a percent of total world consumption rose from 25.7 percent to 43.4 percent between 1980 and 1984. 10/ Industry analysts consider a level of about 25 percent to be normal and to be associated with stable prices. 11/

The United States has regulated imports of sugar for decades. Between 1934 and 1974, imports were limited by the Sugar Act of 1934 and successor legislation. Since 1974, the President has been required, by the sugar "headnote" in the Tariff Schedules, to maintain tariffs and quotas on raw and refined sugar at all times. 12/

5/ Report, at A-44-45.

6/ Price for January delivery, New York Coffee, Sugar & Cocoa Exchange, as quoted in The Wall Street Journal, Oct. 8, 1985, at 50.

7/ Sugar Review, Czernikow Ltd., No. 1733, Dec. 31, 1984, at 243.

8/ Report, at A-10.

9/ Report, at A-9.

10/ Id.

11/ Id.

12/ This headnote authority was negotiated under the GATT in 1950 and 1951 and is contained in the 1967 Geneva Protocol to the GATT. The authority applies to raw and refined sugar provided for in items 155.20 and 155.30 of the TSUS. The tariff must be set at a level between 0.625 cent and 2.8125 cents per pound, raw value. A quota, which must be in effect at all times, need not be set at a restrictive level.

Sugar has been the subject of various price-support programs administered by USDA under the authority of the Agricultural Act of 1949. The present program, which was authorized by the Agriculture and Food Act of 1981, provides for price supports and loans by the Commodity Credit Corporation (CCC) through crop-year 1985. When it passed the 1981 legislation, Congress made it clear that it expected the President to impose sufficiently high duties and fees and sufficiently restrictive quotas under the headnote authority and section 22 so as to avoid having the CCC acquire any sugar. 13/

Since passage of the 1981 program, the President has acted several times to adjust or impose fees, duties, and/or quotas on raw and refined sugar and certain sugar-containing articles to insure that the domestic sugar price remained sufficiently above the support price so that the CCC would not be required to acquire domestic sugar. The present Commission investigation is the result of action taken by the President effective January 29, 1985 (Proclamation No. 5294) to impose emergency quotas on certain of the sugar-containing articles the subject of this investigation. These emergency quotas were modified effective May 19, 1985, by Proclamation No. 5340.

Imports practically certain to materially interfere with USDA program

I find (1) that in the absence of the President's action of January 28, 1985 (Proclamation No. 5294), as modified by his action of May 17, 1985 (Proclamation No. 5340), imports of sugar-containing articles which are the

13/ The Senate Committee on Agriculture, Nutrition, and Forestry projected that there would be no costs in operating the program "provided that import fees and duties are able to maintain the market price at a level above the minimum loan or purchase level. In this case, there would be no CCC acquisition of sugar loan stocks." The Congressional Budget Office cost estimates also projected no outlays for the program. See S. Rep. No. 126, 97th Cong., 1st Sess. (1981), at 239, 252.

subject of those actions are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA price-support program for sugarcane and sugar beets, and (2) that certain confectioners' coatings and edible preparations of gelatin, each containing over 10 percent by dry weight of sugar, are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA price-support program.

The investigation covers a wide range of sugar-containing articles. I found that the imported articles can be grouped into the following ten categories--(1) sweetened cocoa containing over 10 percent by dry weight of sugar; (2) certain pancake flour and other flour mixes containing over 10 percent by dry weight of sugar; (3) certain edible preparations containing over 10 percent by dry weight of sugar (except those contained in category (6)), including sweetened ice tea mixes, beverage bases, cocktail mixes, whipped cream substitutes, other dessert toppings, coffee whiteners, canned pie fillings, white chocolate, marzipans, unbaked frozen pastries, and various bakery additives; (4) certain confectioners' coatings containing over 10 percent by dry weight of sugar; (5) certain edible preparations of gelatin containing over 10 percent by dry weight of sugar; (6) certain other edible preparations, including edible preparations containing 10 percent or less by dry weight of sugar and those not principally of crystalline structure or in dry amorphous form, cake decorations and similar products which are to be used in the same condition as imported without further processing, finely ground or masticated coconut meat or juice mixed with sugar, and minced seafood preparations containing 20 percent or less by dry weight of sugar; (7)

molasses; (8) candy and other confectionery; (9) edible preparations containing over 5.5 percent by weight of butterfat and not packaged for retail sale; and (10) mixed feed products.

My affirmative finding covers imports of the first five categories of articles. The first three categories are covered by the present emergency quotas. For the most part, my affirmative finding is confined to articles which tend to be imported in bulk. The low world price of sugar tends to be an important factor in such imports. I have made a negative finding on the remaining six categories. My negative finding covers a variety of sugar-containing articles. For some, like candy and other confectionery, which tend to be imported in their retail packages, costs of other ingredients and packaging tend to outweigh considerations involving the price of sugar. Others are not generally substitutable for sugar, are imported only in small quantities, or contain only small amounts of sugar.

In making these findings, I have considered, as in past cases, the price-support program and its objectives, import levels, price differences between the domestic and imported articles, world stocks of sugar, and the ability of foreign producers to ship significant quantities of the subject articles to the United States.

I have also carefully examined the submissions and testimony of the various parties to this proceeding. As in past cases, I have given considerable weight to the statements made by USDA, since it is that agency which is charged by Congress with the responsibility of administering the program and is most familiar with its day-to-day operations. In my view, USDA is generally in the best position to know when the goals of a program are threatened, when action is needed, and what that action should be. Other parties may of course rebut USDA's contentions, but unless they can do so persuasively, I give great weight to USDA's contentions and supporting information. 14/ In the present investigation, I have found that the assertions made by USDA concerning the sugar-containing articles covered by Proclamation No. 5340 and certain other sugar-containing articles were not persuasively rebutted.

USDA program.--The USDA price-support program for domestically grown sugarcane and sugar beets operates through a system of nonrecourse loans on U.S.-produced raw and refined sugar. Processors and refiners are eligible to receive loans from the CCC. The loans are based on the support price, and sugar is the collateral for the loan. Forfeitures (CCC acquisitions of sugar) occur only at the maturity of the loan, 6 months after it is taken out. In order to avoid forfeitures, USDA must maintain the market price at a level which exceeds the market stabilization price (MSP). The MSP is the minimum market price required to discourage forfeiture of sugar loans. 15/

When Congress enacted the 1981 program, it made it clear that it intended that there be no forfeitures of sugar in order that there would be no budgetary outlays for the program, other than outlays for normal administrative expenses. Congress intended that the President maintain sufficiently high duties and fees and sufficiently restrictive quotas in order that there would be no forfeitures.

14/ See the statement of Commissioner Eckes and Commissioner Lodwick in investigation No. 22-46, op. cit., note 1, at 11-12. See also the statement of Commissioner Bedell in Certain Tobacco: Report to the President on Investigation No. 22-43 . . . , USITC Publication 1174, August 1981, at 27.

15/ Report at A-13-14.

However, during crop-year 1985, the market price did not remain at a sufficiently high level to discourage forfeitures. As a result, over 870 million pounds of domestic sugar, representing about 20 percent of stocks under loan, were forfeited at a cost to the CCC of $154 million. 16/ Thus, the key objective of the program--that there be no forfeitures or budgetary outlays--was not met in 1985. This marked the first time under the 1981 program that this objective was not met. Imports of some of these sugar-containing articles are practically certain to interfere with this prime objective.

Sweetened cocoa.--Imports of sweetened cocoa rose over 500-fold during the period 1980-84, from 432,000 pounds valued at $170,000 in 1980 to 22 million pounds valued at $9 million in 1984. 17/ During January-June 1985, imports continued to enter at a high level, although the level of 7 million pounds in the 1985 period was below the level of 9 million pounds in the corresponding 1984 period. 18/ The reduced level of imports in 1985 reflects the quotas that have been in effect since January 29, 1985. The quota for the period ending September 30, 1985, was virtually filled (96.5 percent) by May 6, 1985.

Domestic consumption of sweetened cocoa trended slightly downward during the period 1980-84, and U.S. producers' shipments declined by over 10 percent during the period. 19/ The ratio of imports to consumption rose from 1 percent in 1980 to 12 percent in 1984. 20/ Sweetened cocoa is comprised of up to 65 percent sugar by dry weight. 21/ USDA argued that such imports "could

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16/ Memorandum to the Commission, INV-I-186, Oct. 1, 1985.
17/ Report, at A-17.
18/ Id.
19/ Report, at A-18.
20/ Id.
21/ Report, at A-17.

directly displace domestically available sugars through extraction from dry mixtures." 22/ The Chocolate Manufacturers Association argued that the fact that these imports had increased so "explosively since the sugar quota was imposed in 1982 proves that these products are being imported principally for their sugar content." 23/

The arguments of USDA and the Chocolate Manufacturers Association were not persuasively rebutted. The 500-fold surge in sweetened cocoa imports in the face of a slight decline in domestic consumption is clearly related to the low world price of its sugar component. If the present emergency restrictions were suddenly terminated, imports are likely to surge and further displace domestic sweetened cocoa production and domestic sugar. Such imports would further undermine the USDA sugar program.

Pancake flour and other flour mixes.--Imports of pancake flour and other flour mixes have also increased substantially since 1980. Such imports, which were 13.8 million pounds in 1980 and were valued at $3.5 million, declined to 8.7 million pounds valued at $2.9 million in 1982, and then more than doubled to 19.4 million pounds valued at $8.2 million in 1984. 24/ In January-June 1985, imports amounted to 9.6 million pounds compared to 9.3 million pounds in the corresponding period of 1984. 25/ It is believed that virtually all of the imported products contained sugar. 26/ Such pancake flour and other flour mixes have an estimated dry-weight sugar content of 20 to 40 percent. 27/

22/ Posthearing submission of USDA, response to question 56.
23/ Posthearing brief of the Chocolate Manufacturers Association of the United States of America, at 4-5.
24/ Report, at A-21.
25/ Id.
26/ Id.
27/ Report, at A-114.

U.S. production and consumption of flour mixes is large and growing, and domestic shipments exceeded $2 billion in 1982, the latest year for which data were available. 28/ USDA argued that imports of such articles "could directly substitute for domestically available sugars through extraction from dry mixtures." 29/ USDA's arguments were not persuasively rebutted. Imports are increasing and are significant in size. In the absence of the President's emergency action, I believe that such imports are practically certain to materially interfere with USDA's price-support program for sugar.

Certain edible preparations.--Imports of the edible preparations (sweetened iced tea mixes, beverage bases, etc.) increased almost eight fold between 1980 and 1984, from 50 million pounds valued at $36 million in 1980 to 391 million pounds valued at $180 million in 1984. 30/ In January-June 1985, imports amounted to 159 million pounds compared with 155 million pounds in the same period in 1984. 31/ The quota for the period January 29-September 30, 1985 (28,000 short tons), was filled on March 6, 1985. 32/ The quota for the period beginning October 1, 1985, was 84,000 short tons. 33/ Such edible preparations have an estimated dry-weight sugar content of 95 percent. 34/

USDA argued, again persuasively in my view, that such imports could "directly displace use of domestic sugars through manipulation or extraction from dry mixtures." 35/ U.S. production and consumption of such articles,

28/ Report, at A-20.
29/ Posthearing submission of USDA, response to question 56.
30/ Report, at A-23.
31/ Id.
32/ Report, at A-25.
33/ Report, at A-23.
34/ Report, at A-114.
35/ Posthearing submission of USDA, response to question 56.

although unknown, is considered to be large and growing. 36/ The nearly 400 million pounds of such preparations entered during 1984 contain a large amount of sugar. In the absence of the President's action, such imports are clearly practically certain to materially interfere with USDA's price-support program for sugar.

Confectioners' coatings.--Imports of confectioners' coatings, which consist primarily of "summer" coatings and ice cream bar coatings, increased by 17-fold during the period 1980-84, from 676,000 pounds valued at $637,000 in 1980 to 11 million pounds valued at $6 million in 1984. 37/ Imports in January-June 1985 amounted to 3 million pounds as compared with 4 million pounds in the corresponding period of 1984. 38/ Such coatings have an estimated sugar content of 50 percent. 39/

USDA argued that the sugar in these imports could displace domestically available sugar. 40/ The Chocolate Manufacturers Association argued that the "huge" increase in these imports is "directly due to the use of these products as substitutes for high-priced domestic sugar." 41/ These arguments were not persuasively rebutted. While U.S. production and consumption of these coatings is also growing, 42/ the surge in imports at a rate many times that of production and consumption clearly demonstrates that the surge is linked to the low world price of sugar. The ratio of imports to consumption increased from 1 percent in 1980 to 7 percent in 1984. 43/ Imports are displacing

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36/ Report, at A-23.
37/ Report, at A-32.
38/ Id.
39/ Report, at A-114.
40/ Posthearing submission of USDA, response to question 56.
41/ Posthearing brief of the Chocolate Manufacturers Association of the United States of America, at 4-5.
42/ Report, at A-32-33.
43/ Report, at A-33.

domestically available sugar and are practically certain to materially interfere with the USDA price support program for sugarcane and sugar beets.

Edible preparations of gelatin.--Imports of edible preparations of gelatin, the fifth category, increased irregularly over the period 1980-84 by more than six fold, from $908,000 in 1980 to $5.9 million in 1984. 44/ Imports in January-June 1985 amounted to $6.3 million and exceeded full year 1984 levels. 45/ Imports in January-June 1984 were $4.1 million. 46/ Such edible preparations of gelatin have an estimated sugar content of 70 to 90 percent. 47/

USDA argued that imports "could directly substitute for domestically available sugar through segregation from such items as gelatin/sugar/flavoring blends." 48/ Amstar and the United States Beet Sugar Association argued that the increase in imports is directly linked to the price differential between domestic and foreign sugar. 49/ I find these arguments persuasive. The quantity of sugar represented by these imports is significant. Accordingly, I find that such imports are practically certain to materially interfere with USDA's price support program for sugarcane and sugar beets.

Negative determination with respect to the remaining articles

For the reasons set forth below, I find that the remaining six categories of sugar-containing articles the subject of this investigation are not being and are not practically certain to be imported into the United States under

44/ Report, at A-39.
45/ Report, at A-40.
46/ Id.
47/ Report, at A-114.
48/ Posthearing submission of USDA, response to question 56.
49/ Posthearing brief of Amstar Corp., at 2-3; and posthearing brief of the U.S. Beet Sugar Association, at 3-4.

such conditions or in such quantities as to render or tend to render ineffective, or materially interfere with, USDA's price-support program for sugarcane and sugar beets.

Certain other edible preparations.--Imports of edible preparations provided for in TSUS item 183.05 were included in the emergency quotas in Proclamation No. 5294, but certain of these articles were excluded from the quotas by Proclamation No. 5340. Most of the articles excluded contained 10 percent or less by dry weight of sugar and/or were ethnic or specialty articles, such as ramen (oriental noodles with a soup base), frozen pizzas, certain coconut products used in making pina coladas, and certain shellfish preparations. 50/ Many of these articles, such as frozen pizzas and ramen, contain less than 10 percent by dry weight of sugar.

Imports of several of the products increased substantially during the period 1980-84, but imports of others, such as coconut products, declined. 51/ USDA does not argue that these imports are materially interfering with the sugar program, and no party persuasively argued that they were. Based on the information available, it appears that most if not all of the increase in imports of many of these preparations is related to the growing popularity of these foods and that it has little if any relationship with their sugar content. While sugar may be a significant ingredient in many of them, other factors such as the value of other ingredients or product "authenticity" appear to outweigh the significance of lower world prices for sugar.

50/ Report, at A-27.
51/ Report, at A-27-28.

Molasses.--Imports of molasses for human consumption remained relatively constant during the period 1980-84. Imports declined from 20,000 short tons in 1980 to 12,000 short tons in 1981 and then rose irregularly to 21,000 short tons in 1984. 52/ Imports in January-June 1985 totaled 15,000 short tons and were slightly below the level of 16,000 short tons entered in the corresponding period in 1984. 53/

While USDA argued that molasses syrups could directly substitute for use of domestic sugars, 54/ there is no present evidence that this is happening or is practically certain to happen to any significant extent. Much of the imported molasses is high-priced, specialty molasses imported from Barbados and the Dominican Republic. 55/ Many of the parties argued that molasses does not interfere with the sugar program, and none (other than USDA) argued that it might. 56/ The Keebler Company and the Biscuit and Cracker Manufacturers Association indicated that edible molasses is used in the baking industry to provide flavor and not for the sucrose content. They also indicated that they were unaware of any molasses being used for the extraction of sugar in the United States. 57/

Candy and other confectionery.--Imports of candy and other confectionery, including certain hard candies, fudge, marshmallows, chocolate covered nuts, and similar products, almost doubled during the period 1980-84, increasing from 116 million pounds valued at $120 million in 1980 to 229 million pounds valued at $222 million in 1984. 58/ Imports in January-June 1985 amounted to

52/ Report, at A-30.
53/ *Id.*
54/ Posthearing submission of USDA, response to questions 30, 47, and 56.
55/ Report, at A-30.
56/ *Id.*
57/ *Id.*
58/ Report, at A-35.

123 million pounds compared with 92 million pounds in the corresponding period of 1984. 59/ Such candy and other confectionery have an estimated sugar content of 40 to 80 percent. 60/

USDA stated that it was concerned about "those products that are being imported principally for their extractable sugar content or for their ability to directly substitute for sugar use." 61/ However, several submissions indicated that such imports are not capable of having the sugar extracted or being used as a direct substitute for sugar and that such imports tend to be high-priced gourmet or specialty products. 62/ The United States Beet Sugar Association argued, on the other hand, that such imports were occurring "because of the low world price of sugar in an effort to avoid the existing sugar quotas, and such imports affect the price of sugar directly and by displacement of U.S. produced sugar." 63/

While such imports are displacing some domestic sugar, I do not believe that they are being or are practically certain to be imported under such conditions and in such quantities as to materially interfere with the program. The unit value of the imported confectionery articles is high relative to the price of sugar. While the unit value has been declining in recent years, in part due to the strong U.S. dollar, it is still almost five times the domestic support price of sugar. 64/ Many of the imported articles are of a high-priced, gourmet nature, and include ingredients that are far more expensive than sugar. Nevertheless, imports in this category may bear watching.

59/ Id.
60/ Report, at A-114.
61/ Posthearing submission of USDA, response to question 33.
62/ E.g., Transcript of Hearing, at 132-34, 152-53, 156, 185-87.
63/ Posthearing brief of the United States Beet Sugar Assn., at 2-4.
64/ Report, at A-36.

Edible preparations containing over 5.5 percent by weight of butterfat and not packaged for retail sale.--All known imports of articles covered by this category are already subject to section 22 restrictions designed to protect USDA's price-support program for milk. 65/ In the absence of any known imports of such articles which fall outside the milk program restrictions and in the absence of evidence that such imports are likely to occur, I have made a negative finding.

Mixed feed products.--U.S. imports of animal feeds containing sugar are estimated to have totaled 700 short tons in 1984. 66/ The imports have consisted of a mixture of corn meal and raw sugar for use as an animal feed. 67/ USDA asserted that there was "a potential" for such imports to interfere with the price-support program. 68/ There was no known domestic production of such feeds. 69/ In view of the small size of such imports, the likely small amount of sugar included in them, and the fact that they displace little if any domestic sugar, I have concluded that such imports are not being and are not practically certain to materially interfere with USDA's price-support program.

Remedy

I recommend that the President impose a quota on imports of the sugar-containing articles the subject of my affirmative finding in an amount equal to the quantity of such articles entered during calendar year 1982.

65/ Report, at A-41.
66/ Report, at A-42.
67/ Id.
68/ Report, at A-42.
69/ Id.

Section 22(b) permits the President to impose such import fees (up to 50 percent ad valorem) or quantitative restrictions (but such restrictions must allow entry of at least 50 percent of that quantity entered or withdrawn from warehouse during a representative period) as are necessary in order that the imported articles will not render or tend to render ineffective, or materially interfere with, the USDA program at issue. The President cannot impose both fees and quotas on the same articles, but he can impose fees on some articles and quotas on others. 70/

In determining what relief to recommend, I took into account such factors as the goals of the sugar program, including Congress' stated goal that there be no budgetary outlays for the program (other than for administrative expenses); the fact that the CCC was required to purchase domestic sugar at the end of crop-year 1984/85 and that the goal of no budgetary outlays was not met; the low world price of sugar; high world inventories of sugar; the relative ease with which the various blends can be created and the sugar later separated; and the strong likelihood that world sugar prices will continue low and world inventories continue high in the future.

I examined both fees and quotas. As a general rule, I prefer fees over quotas because they tend to distort trade less. However, in view of the low world price of sugar and tendency for that price to fluctuate rapidly, I concluded that (1) even the maximum fee of 50 percent ad valorem would be inadequate to raise the price of many of the imported articles to a price of non-interference, and (2) fees would be overly restrictive if the world price rose appreciably. In investigation No. 22-49, Sugar, the Commission

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70/ United States v. Best Foods, Inc., 47 Cust. & Pat. App. 163 (1960).

unanimously recommended that the President terminate section 22 fees on imports of raw sugar and modify section 22 fees on imports of refined sugar because the Commission had concluded that such fees were ineffective. 71/

I recommend that quotas be set at a level equal to 1982 imports of the subject articles. Imports in that year do not appear to have been significantly distorted by efforts to circumvent restrictions on raw and refined sugar and other sugar-containing articles. However, import levels in 1983 and 1984 reflect distortions.

I believe, for three reasons, that importation of any quantity of such articles beyond the 1982 level will materially interfere with the price-support program. First, allowing such additional quantities would be the equivalent of increasing the quotas on raw and refined sugar. As stated above, the CCC was forced to acquire sugar on September 30, 1985, and imports of sugar-containing articles which displace domestic sugar increase the likelihood that the CCC will have to acquire even more sugar in 1986. Second, the entry of increased quantities of sugar-containing articles tends to favor certain large foreign suppliers, such as Canada and the European Community, over traditional suppliers of raw sugar, such as the Philippines and the Caribbean Basin countries, whose exports to the United States of raw sugar are limited by present quotas but who lack the ability to export large quantities of sugar-containing articles. Third, the allowance of the additional quantities serves to reward those who circumvent the quotas and to encourage others to follow suit.

71/ The Commission recommended that a 1-cent-per-pound fee be retained on refined sugar in order to insure that there would continue to be a price differential between raw and refined sugar equal to the cost of refining such sugar.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On March 22, 1985, the United States International Trade Commission received a letter from the President directing it to make an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether certain articles containing sugar are being, or are practically certain to be, imported under such conditions, at such prices, and in such quantities as to render or tend to render ineffective or materially interfere with the price-support program of the U.S. Department of Agriculture (USDA) for sugarcane and sugar beets. 1/ Effective January 29, 1985, the President imposed emergency quotas on imports of some of these articles, as set forth in Presidential Proclamation No. 5294 (50 F.R. 4187, Jan. 30, 1985). 2/ These emergency quotas were modified, effective May 19, 1985, in Presidential Proclamation No. 5340 (50 F.R. 20881, May 21, 1985). 3/

In response to the President's request, the Commission instituted the present investigation, No. 22-48, on April 25, 1985. Notice of the investigation was published in the Federal Register on May 1, 1985 (50 F.R. 18584). The public hearing was held in Washington, DC, on July 17, 1985. The Commission voted on this investigation on October 1, 1985, and notified the President of its recommendations on October 10, 1985. 4/

The letter from the President specified the articles for the Commission to consider when making its determination in this investigation. These consist of the articles in the following items of the Tariff Schedules of the United States (TSUS), to the extent that they contain sugar derived from sugar beets or sugarcane and are not within the scope of TSUS items 958.10 and 958.15, or other import restrictions provided for in part 3 of the Appendix to the TSUS: TSUS items 155.35, 156.45, 156.47, 157.10, 182.90, 182.92, 183.01, 183.05, and 184.7070, which include such articles as confectioners' coatings, edible preparations not specially provided for, and certain types of animal feeds, among others. Certain of these tariff items, namely 156.45, 183.01, and 183.05, were covered by the emergency quotas specified in Presidential Proclamation Nos. 5294 and 5340.

The modification of the quotas by Presidential Proclamation No. 5340 limits the application of the quantitative restrictions to articles containing over 10 percent by dry weight of sugars derived from sugarcane or sugar beets, whether or not mixed with other ingredients, except articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to retail consumers in the identical form and package in which imported, or articles within the scope of TSUS items 958.10 and 958.15, or other import restrictions provided for in part 3 of the appendix to the TSUS.

1/ A copy of the President's letter to the Commission is presented in app. A.
2/ A copy of Presidential Proclamation No. 5294 is presented in app. A.
3/ A copy of Presidential Proclamation No. 5340 is presented in app. A.
4/ A copy of the Commission's notice of institution and a list of witnesses appearing at the hearing are presented in app. B.

The quota modification also includes an exception as to articles classified in TSUS item 183.05 for cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat, or juice thereof, mixed with those sugars; and minced seafood preparations containing 20 percent or less by dry weight of those sugars.

This investigation includes articles that were made subject to emergency quotas effective January 29, 1985; articles that were subject to those quotas and were exempted from them effective May 19, 1985; and other articles that are not within the scope of any import restrictions. This report is divided along the lines of these general groups. Additionally, a brief background section on the domestic and world sugar situations precedes the discussion of the articles covered by the investigation. 1/

If the Commission's determination is affirmative with respect to some or all of the articles within the scope of this investigation, it will be necessary to consider a remedy recommendation, which may take the form of either fees or quotas, and which may be applied across the board or on an article-by-article basis. The issue of a remedy is discussed in the final section of this report.

Background--The Domestic Sugar Situation

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 sugarcane) and 45 percent from foreign sources (virtually all cane).

U.S. sugar beet growers and beet sugar processors

Sugar beets are currently produced in 13 States. In 1983/84, there were 9,775 farms producing sugar beets, down from the 10,500 farms producing sugar beets in 1977/78. For 1984/85, estimated U.S. sugar beet acreage harvested was 1,096,200 acres, up from 1,026,800 acres in 1982/83 (table 1). 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 that includes a percentage of the return processors receive from the sale of the refined sugar. In 1983, there were 41 beet sugar factories scattered throughout the beet-sugar-producing regions in the United States.

Hawaiian sugarcane growers and millers

Hawaii is noted for having the highest yields of sugarcane per acre in the world. There were more than 300 farms in Hawaii, harvesting 89,400 acres of sugarcane in 1984. About one-half the acreage is irrigated, and it

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1/ A more detailed discussion of the domestic and world sugar situation is presented in the report on Inv. No. 22-49, Sugar, being prepared concurrently with this report.

Table 1.—Sugar: U.S. acreage, production, and season average prices, by States, crop years 1980/81 to 1984/85

Crop Year	Cane sugar						Beet sugar											
	Florida	Hawaii	Louisiana	Puerto Rico	Texas	Total	California	Minnesota	Idaho	North Dakota	Michigan	Nebraska	Colorado	Wyoming	Montana	Texas	All other	Total
	Acreage (1,000 acres)																	
1980/81	320.7	97.4	232.0	78.7	33.5	762.3	229.0	243.0	137.9	142.7	97.0	85.0	91.0	45.3	43.3	24.4	50.9	1,189.5
1981/82	334.0	98.6	247.0	74.6	36.7	790.9	260.0	257.0	145.0	144.9	99.0	78.3	77.0	44.9	44.5	25.2	54.0	1,229.8
1982/83	341.4	89.3	234.0	53.7	35.7	754.1	162.0	252.0	136.0	144.8	96.5	45.4	46.0	38.4	43.0	29.4	33.3	1,026.8
1983/84	361.1	92.8	245.0	56.5	34.5	789.9	169.0	259.0	143.0	142.2	104.0	65.3	37.2	32.1	41.3	31.9	30.8	1,055.8
1984/85	370.8	89.4	205.0	57.9	35.5	758.6	208.0	261.0	144.0	139.1	108.0	67.5	44.2	32.7	24.6	37.8	29.3	1,096.2
	Production (1,000 short tons)																	
1980/81	9,985	9,214	5,414	2,236	969	27,818	5,855	3,621	3,296	2,017	1,892	1,777	1,729	1,024	879	386	1,026	23,502
1981/82	9,530	8,831	6,650	2,038	1,154	28,203	7,254	4,403	3,754	2,695	2,030	1,889	1,733	1,078	926	575	1,201	27,538
1982/83	12,086	8,808	6,450	1,579	1,105	30,028	3,852	4,738	3,182	2,476	1,835	926	920	810	850	556	749	20,894
1983/84	11,330	8,926	5,850	1,419	1,095	28,620	3,938	4,662	3,487	2,404	1,976	1,233	603	616	818	622	633	20,992
1984/85	12,162	8,990	4,510	1,210	1,058	27,930	5,138	4,346	3,312	2,309	2,117	1,480	964	654	416	832	639	22,207
	Value of production (million dollars)																	
1980/81	393.4	385.1	179.7	64.8	26.3	1,049.3	301.3	159.7	152.3	93.4	77.0	83.5	82.1	52.1	45.2	16.5	45.9	1,109.0
1981/82	272.6	207.5	152.3	34.2	18.3	684.9	232.1	88.1	122.0	55.2	53.8	63.7	58.6	41.0	34.4	17.6	66.4	803.6
1982/83	355.7	235.7	176.5	25.4	22.0	815.3	127.1	162.5	118.4	88.4	66.3	32.3	32.2	31.4	36.0	20.4	25.3	740.3
1983/84	330.4	273.9	160.1	25.3	17.1	806.8	158.3	165.0	141.2	85.1	71.5	38.9	20.1	21.1	30.8	22.2	31.6	777.7
1984/85	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/
	Season average price (per short ton)																	
1980/81	39.40	41.80	33.20	28.90	27.10	37.70	51.20	44.10	46.20	46.30	40.70	47.00	47.50	50.90	51.40	42.70	46.10	47.20
1981/82	28.60	23.50	22.90	16.80	15.90	22.30	32.00	20.00	32.50	20.50	26.50	33.70	33.80	38.00	37.20	30.60	38.60	29.20
1982/83	28.20	26.20	25.10	16.10	19.50	27.20	33.00	34.30	37.20	35.70	35.80	34.90	35.00	38.80	42.40	36.70	33.80	35.40
1983/84	28.60	29.90	25.30	17.70	15.20	28.20	40.20	35.40	40.50	35.40	36.20	31.60	33.40	34.00	37.60	35.70	49.90	37.00
1984/85	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/
	Production of sugar (1,000 short tons, raw value)																	
1980/81	1,121	1,023	491	177	93	2,905	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	3,149
1981/82	963	1,048	712	154	110	2,987	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	3,388
1982/83	1,307	983	675	114	98	3,177	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	2,737
1983/84	1,223	1,044	603	100	60	3,030	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	2,699
1984/85	1,384	1,060	440	96	99	3,079	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	1/	2,963

1/ Not available.

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

produces two-thirds of the sugarcane harvested. Five large corporations, often called the five factors, 1/ account for more than 95 percent of the acreage and production of Hawaiian sugarcane 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 companies that produce and/or mill raw sugar, but it also serves as the refiner and marketing agency for independent nonmember sugarcane farmers in Hawaii.

Mainland sugarcane growers and millers

Louisiana, Florida, and Texas are the principal mainland States producing sugarcane. The mainland cane-milling industry takes sugarcane from growers and processes it into raw sugar. Because it rapidly becomes more difficult to recover sucrose from sugarcane once it has been cut, the cane mills are located close to the producing areas. In 1982/83, the 29 mainland cane-milling companies produced about 2.1 million short tons of raw sugar and several byproducts, such as molasses and bagasse.

Louisiana.--Sugarcane in Louisiana is grown on the flood plains of the bayous (mostly streams in the Mississippi River Delta). The acreage that can be devoted to sugarcane in Louisiana is limited, and any expansion of production will probably be accomplished by increasing yields. The number of farms producing cane totaled 150 in 1983/84 (the last year for which official statistics are available). More than one-half of the Louisiana crop is grown by owners of processing mills.

Florida.--In Florida, sugarcane production has been increasing. In 1983/84, there were 136 farms producing sugarcane (the last year for which official statistics are available), but the bulk of production comes from a few large farms. The land devoted to sugarcane in Florida is concentrated in the vicinity of Lake Okeechobee, where the "soil" consists of organic materials deposited over the centuries. As sugarcane 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, sugarcane production methods will have to be revised. Most of the sugarcane in Florida is produced by owners of cane sugar mills, of which there were seven in 1983/84. One company in Florida that is both a processor and grower, the United States Sugar Corp., is the largest grower of sugarcane in the United States.

Texas.--The Texas sugarcane industry began production in southern Texas in 1973/74. In 1983/84, there were 98 farms producing sugarcane (the last year for which official statistics are available). It is likely that the number of farms has remained about the same since then.

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

Puerto Rico sugarcane growers and millers

In the last 5 years, there has been an increase in the number of farms producing sugarcane and in sugarcane production in Puerto Rico. The number of farms increased from 1,425 in 1977/78 to 1,481 in 1983/84 (the last year for which official statistics are available). The bulk of the sugarcane acreage and most of the sugarcane-processing mills are owned, leased, or contracted for by the Sugar Corp. of Puerto Rico, a quasi-governmental corporation. In 1983, only five mills processed sugarcane.

Cane sugar refiners

In 1983, there were 19 cane sugar refineries in the continental United States, located mainly on the east and gulf coasts and 1 refinery located in Hawaii. Cane sugar refiners refine domestic raw cane sugar and are also the principal users of imports of raw sugar. The 19 cane sugar refineries are operated by 11 companies and 1 cooperative. Traditionally, cane sugar refiners have provided about 70 percent of the sugar consumed in the mainland U.S. market. In 1982, U.S. cane sugar refiners produced over 6 million short tons, raw value, of sugar.

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, documenting import and export records, delivering the product 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.

Alternative caloric sweeteners

The principal alternatives to sugar in sweetener markets are derived from cornstarch. Most cornstarch derivatives, including glucose, glucose syrup, and dextrose, are seldom used as direct substitutes for sugar; however, a recently developed corn-based product, high-fructose corn syrup (HFCS), has grown rapidly in sales and has been increasingly purchased in lieu of sugar for certain applications, especially those for which liquid sugar is used. HFCS could eventually serve as a substitute in most products that do not specifically require dry crystal sweeteners. 1/

1/ Even where liquid sweeteners are possible, HFCS may not always be a feasible alternative. In ice cream, for example, the molecular structure of HFCS lowers the product's freezing point, a condition that makes storage and handling more difficult.

U.S. sugar production, imports, and consumption

U.S. production of sugar increased from 5.9 million short tons in 1980 to 6.3 million tons in 1981 (table 2). High prices received by growers in 1980 led to the expansion of production in 1981; lower prices in 1981 and 1982 contributed to a decline in production in 1982 and 1983. Production in 1984 was 5.9 million short tons, 3 percent higher than that in 1983. The rise reflects increased production of sugar beets, which rose almost 10 percent from that of 1983, and higher production of sugarcane.

U.S. imports of sugar rose from 4.7 million tons in 1980 to 5.1 million tons in 1981. The increase in 1981 probably reflects anticipation of higher duties and fees in 1982. Imports fell sharply in 1982 and continued to decline in 1983 to 2.9 million tons, resulting from the quotas. Imports increased in 1984, reflecting an increase in the quotas and an increase in quota-exempt sugar.

Table 2.--Sugar: U.S. production, imports, exports, ending stocks, and consumption, calendar years 1980-84

(In thousands of short tons)

Year	Production	Imports	Exports	Ending stocks 1/	Consumption 2/
1980	5,914	4,673	661	3,082	10,635
1981	6,273	5,073	1,146	3,461	9,821
1982	6,016	3,044	70	3,068	9,383
1983	5,749	2,936	260	2,570	8,923
1984 3/	5,912	3,372	367	3,086	8,401

1/ Stocks held by primary distributors and the Commodity Credit Corporation (CCC).
2/ Does not include sugar imported in blends or mixtures.
3/ Preliminary.

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

Normally, the United States has not been a major exporter of sugar. However, U.S. exports totaled 661,000 short tons in 1980, up sharply from historical levels. Exports increased further in 1981 to 1,146,000 tons. Exports declined dramatically in 1982 to 70,000 tons, and then increased to 367,000 tons in 1984. The rise in exports in 1980 and 1981 reflected the use of the drawback provision available to U.S. refiners. The subsequent decline in 1982 and 1983 reflects the fact that during May 11, 1982, through June 28, 1983, imports of sugar were restricted under the quotas imposed pursuant to Presidential Proclamation No. 4941 to specific quantities and did not allow additional quantities for reexport. As of June 29, 1983, regulations became effective allowing additional quantities of sugar to be imported outside the quota system for reexport.

The drawback provision is set forth in section 313(a) of the Tariff Act of 1930 (19 U.S.C. 1313(a)). Under this provision, a manufacturer that imports merchandise and then exports products produced from the imported merchandise is eligible to receive a refund on the duties and fees paid on the imports, less 1 percent. 1/ Additionally, if both imported and domestic materials of the same kind and quality are used within a specified period to produce a product, some of which is exported, a drawback equal to 99 percent of the duties and fees paid on the imported material is payable on the exports. Under this section, called the substitution provision, it does not matter whether the actual imported material or similiar domestic material was used to produce the exported articles (19 U.S.C. 1313(b)). 2/

The use of drawback is particularly advantageous when current duties and fees are lower than those during a recent time period. The present conditions regarding raw sugar are an example of this situation. Domestic refiners may have paid duties and fees totaling as much as 5.1 cents per pound on imported raw sugar in 1985. These refiners could import raw sugar, pay the present duties (as low as "free" from Generalized System of Preferences (GSP) and Caribbean Basin Economic Recovery Act (CBERA) suppliers), refine and export the sugar, and claim drawback based on previous duties and fees of as much as 5.1 cents per pound. 3/

Consumption of sugar declined steadily from 10.6 million short tons in 1980 to 8.4 million tons in 1984, representing a decline of 21 percent. The continuous decline is attributable to several factors, including the increasing usage of corn sweeteners--primarily HFCS--in place of sugar and the substitution of noncaloric sweeteners such as aspartame. The portions of per capita caloric sweetener consumption since 1980, compiled from USDA data, are shown in the following tabulation:

1/ This refund also applies to any dumping, countervailing, or marking duties paid on imports (Customs Regulations, 19 CFR 22.41).

2/ To claim drawback, exports must be made within 5 years of the date of importation, and the product to be exported must be produced during the first 3 of those years. Also, claims for drawback must be filed within 3 years of the date of exportation.

3/ The U.S. Government is conducting an investigation in which more than 30 persons and companies have been indicted for fraud. They are charged with importing sugar and selling it in the U.S. market and falsely claiming that they had exported refined sugar in order to receive a rebate of the import duties and fees under the drawback provision.

Year	Sugar	Corn sweeteners 1/	All other 2/	Total
	Quantity (pounds per capita)			
1980-----	83.6	40.2	1.2	125.0
1981-----	79.4	44.5	1.2	125.1
1982-----	73.7	48.2	1.3	123.2
1983 3/--	71.1	52.2	1.3	124.6
1984 3/--	67.5	57.9	1.4	126.8
	Percent of total			
1980-----	66.9	32.2	.9	100
1981-----	63.5	35.6	.9	100
1982-----	59.8	39.1	1.1	100
1983 3/--	57.1	41.9	1.0	100
1984 3/--	53.2	45.7	1.1	100

1/ HFCS, glucose, and dextrose.
2/ Honey and edible syrups.
3/ Estimated.

Per capita noncaloric sweetener consumption from 1980 to 1984, compiled from USDA data, is shown in the following tabulation (in pounds per capita):

	Saccharin	Aspartame	Total non/low caloric 1/	Caloric	Total
1980--	7.7	0.0	7.7	125.0	132.7
1981--	8.0	.2	8.2	125.1	133.3
1982--	8.4	1.0	9.4	123.2	132.6
1983--	9.5	3.5	13.0	124.6	137.6
1984--	10.0	5.8	15.8	126.8	142.6

1/ Sugar sweetness equivalent. Assumes saccharin is 300 times as sweet as sugar and aspartame is 200 times as sweet as sugar.

U.S. consumption of all sweeteners increased from 1980 to 1984. Consumption of noncaloric sweeteners increased from 6 to 11 percent of total sweetener consumption during 1980-84.

World production, consumption, and trade

World production of sugar increased from 96 million short tons in the 1980/81 crop year 1/ to 112 million short tons in 1982/83. Production declined in 1983/84 to 106 million short tons as a result of substantially

1/ A crop year begins on Sept. 1 and ends on Aug. 31 of the following calendar year.

lower production in the European Community (EC) and India (table 3). The USDA estimates that world production will increase by about 3 percent in 1984/85 to 110 million short tons. The EC, Brazil, the U.S.S.R., Cuba, India, and the United States are the leading world producers. The leading producers are generally the major world consumers of sugar. In general 75 to 80 percent of world sugar production is consumed in the country where it is grown. However, some of the largest producer/consumers are also major exporters, such as the EC and Brazil. Other producers, including Cuba and Australia, are small consumers.

Total world production has exceeded consumption in recent years, resulting in increases in world inventories every year since 1980, except for 1983 when inventory levels were unchanged, as shown in the following tabulation:

Year	Inventories as of Sept. 1 (million short tons)	Inventories as a share of total consumption (percent)
1980	25.0	25.7
1981	36.1	36.2
1982	44.4	43.0
1983	44.4	42.1
1984	45.9	43.4

Most of the inventories are held by exporters, primarily Brazil, the EC, and India. Stock levels equivalent to 25 percent of world consumption are considered normal by industry analysts and are associated with stable prices. The current stock levels overhang the market and limit price rises. This relationship is shown in the following figure. 1/

The apparent overproduction of sugar is the result of a number of factors, including available resources such as mills, refineries, trained labor, favorable soils and climate, and favorable weather in recent years. Also, governmental policies encourage sugar production for a number of reasons, such as the desire to obtain a degree of self-sufficiency, the need to increase employment, and the necessity to earn foreign exchange.

From 1980/81 to 1984/85, world consumption of sugar increased steadily from 97 million short tons to 106 million short tons. The leading consumers are the U.S.S.R., the EC, India, the United States, Brazil, and China.

World imports of sugar increased from 30 million short tons in 1980/81 to 32 million tons in 1981/82, before declining steadily to 29 million tons in 1984/85 (table 4). The leading importers have been the U.S.S.R., the EC, the United States, and Japan. The leading exporters have been Cuba, the EC, Brazil, and Australia (table 5).

1/ See U.S. Department of Agriculture, Economic Research Service, The Sugar Industry's Structure, Agricultural Economic Report No. 363, March 1977, and A.G. Becker Incorporated, Futures: The Sugar Beat, May 2, 1983.

Table 3.--Sugar: World production, by leading producers, and world consumption, by leading consumers, crop years 1980/81 to 1984/85

(In thousands of short tons, raw value)

Area	1980/81	1981/82	1982/83	1983/84 1/	1984/85 2/
	Production				
European Community	14,139	17,647	16,243	12,839	14,603
Brazil	8,929	9,252	10,362	10,362	9,800
U.S.S.R	7,606	7,069	8,148	9,590	9,700
Cuba	7,055	9,047	7,937	9,039	9,039
India	7,203	10,722	10,481	7,762	7,628
United States	6,005	6,012	5,907	5,818	5,800
China	3,364	3,748	4,555	4,216	4,785
Australia	3,734	3,785	3,897	3,763	3,816
Mexico	2,776	3,133	3,393	3,574	3,753
Republic of South Africa	1,884	2,404	2,487	1,612	2,757
All other	33,021	37,783	38,262	37,514	37,861
Total	95,716	110,602	111,672	106,089	109,542
	Consumption				
U.S.S.R	13,558	14,304	14,339	14,550	14,661
European Community	11,428	11,481	11,265	11,053	11,177
India	7,038	7,521	8,402	9,811	10,207
United States	10,050	9,281	8,843	8,550	8,090
Brazil	6,283	6,429	6,810	6,945	6,945
China	3,968	4,905	5,422	5,560	5,732
Mexico	3,583	1,113	3,638	3,594	3,682
Japan	2,995	3,031	3,017	3,041	2,981
Poland	1,432	1,448	2,047	2,299	2,486
Turkey	1,142	1,213	1,334	1,466	1,615
All other	35,940	39,037	38,304	38,568	38,131
Total	97,417	99,763	103,421	105,437	105,707

1/ Estimate.
2/ Forecast.

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

Figure --Raw sugar: World price and ratio of world ending stocks to consumption, 1956-84.

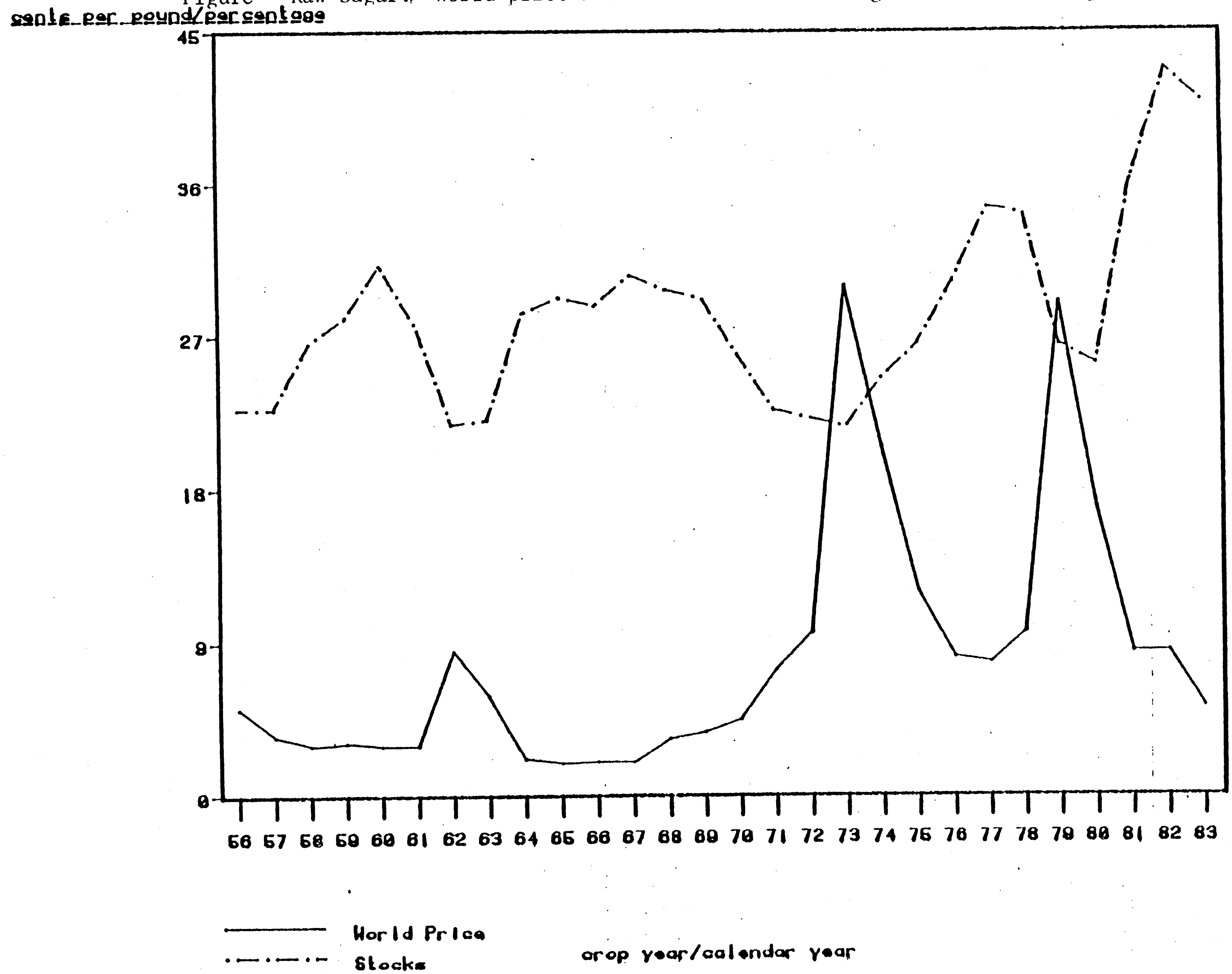

Table 4.--Sugar (raw value): World imports, by major markets, crop years 1980/81 to 1984/85

(In thousands of short tons)

Market	1980/81	1981/82	1982/83	1983/84	1984/85
U.S.S.R	6,129	7,587	6,532	6,173	5,952
United States	5,121	3,851	2,847	3,214	2,425
European Community	1,323	2,648	2,327	3,014	3,005
Japan	2,167	2,435	1,951	2,103	1,970
China	661	1,168	2,734	1,236	1,102
Canada	992	1,024	1,095	1,095	1,041
India	1/	0	0	89	992
Egypt	1/	797	827	860	882
All other	13,369	12,714	12,801	12,659	11,215
Total	29,762	32,224	31,114	30,443	28,584

1/ Included in "All other."

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

Table 5.--Sugar (raw value): World exports, by major sources, crop years 1981/82 to 1984/85

(In thousands of short tons)

Source	1981/82	1982/83	1983/84	1984/85
Cuba	8,525	7,487	7,716	7,826
European Community	7,556	7,469	6,601	6,035
Brazil	3,289	3,289	2,908	3,086
Australia	2,888	2,962	2,866	2,972
Thailand	2,666	1,536	1,520	1,764
Philippines	1,448	1,551	1,067	1,252
Dominican Republic	899	899	931	937
South Africa	938	1,132	474	935
All other	8,142	8,497	8,982	7,753
Total	36,351	34,822	33,065	32,560

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

Note: World exports of sugar are not available on a comparable basis for 1980/81.

The price-support program for sugarcane and sugar beets

Section 201(h) of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, requires a price-support program for domestically grown sugarcane and sugar beets for the 1982 through 1985 crop years. A purchase agreement program was established at 16.75 cents per pound for raw cane sugar processed between December 22, 1981 (the date of enactment of the Agriculture and Food Act of 1981), and March 31, 1982. Effective October 1, 1982, a nonrecourse loan program was to be established with a loan rate of not less than 17 cents per pound for raw cane sugar processed after March 31, 1982, but before July 1, 1983. The minimum loan rate for raw cane sugar was to be increased to not less than 17.5 cents per pound on October 1, 1983 (for sugar processed between July 1, 1983, and June 30, 1984), 17.75 cents per pound on October 1, 1984 (for sugar processed between July 1, 1984, and June 30, 1985), and 18 cents per pound on October 1, 1985 (for sugar processed between July 1, 1985, and June 30, 1986). The price of domestically grown sugar beets is to be supported at a level that is fair and reasonable in relation to the support level for sugarcane. The USDA has supported the price of refined sugar based on the historical relationship between refined beet sugar net selling prices and raw cane sugar prices for the period 1975-80 (1.13 cents to 1.00 cents). Loan rates vary by region. For 1984/85, processors may receive loans for raw cane and refined beet sugar at national average prices of 17.75 and 20.76 cents per pound, respectively.

The report of the Senate Committee on Agriculture, Nutrition, and Forestry accompanying the Agriculture and Food Act of 1981 requested the use of the available legislative authorities to prevent budgetary outlays. The USDA, in order to avoid loan forfeitures, has established a market stabilization price (MSP) above the loan rate. The MSP is the price considered by the USDA to be the minimum market price required to discourage forfeiture of sugar loans. The difference between the loan rate and the MSP is the estimated freight and related marketing expenses for raw sugar, the interest required to redeem a loan, and an incentive factor to encourage processors to sell sugar in the marketplace rather than forfeit their loan. The MSP for the 1984/85 crop is as follows (in cents per pound):

Item	Value
Loan rate for raw cane sugar------------------	17.75
Transportation and handling costs-------------	2.68
Interest (10.625 percent for 6 months)--------	.94
Incentive to market sugar---------------------	.20
Total (MSP)------------------------------	21.57

Loans under the sugar price-support program are nonrecourse loans. Sugar processors can elect to forfeit to the CCC the sugar held as collateral on the loan and not be liable for any additional amounts. However, sugar cannot be forfeited earlier than 6 months after the loan is obtained. Thus, the first loans for each crop year come due in May. A notice of intention to forfeit must be given to the CCC at least 30 days prior to forfeiture.

Under the price-support program mandated by the Agriculture and Food Act of 1981, there were no sales of sugar to the CCC under the purchase program and no loan forfeitures during the 1982/83 and 1983/84 crop years. Price-support activity during the current (1984/85) marketing year is as follows (as of Aug. 27, 1985):

State	Total loans	Loans redeemed	Loans outstanding
	Beet sugar (1,000 pounds, refined)		
California	339,591	198,591	141,000
Colorado	844,558	406,335	1/ 175,165
Michigan	103,200	89,100	14,100
Minnesota	440,058	440,058	0
North Dakota	55,600	55,600	0
Utah	1,063,000	909,000	154,000
Total	2,846,007	2,098,684	1/ 484,265
	Cane sugar (1,000 pounds, raw value)		
California	40,000	40,000	0
Florida	1,169,235	249,947	919,288
Louisiana	200,926	200,926	0
Total	1,410,161	490,873	919,288

1/ Total excludes 263.1 million pounds of sugar forfeited by the Great Western Sugar Co.

The Great Western Sugar Co. and its subsidiary, the Northern Ohio Sugar Co., both owned by Hunt International Resources Corp., completed their harvest this season but stopped shipping sugar and ceased business operations on March 1 because of financial difficulties. Combined, the two companies held about 438.6 million pounds of refined sugar as collateral on CCC loans. The Great Western Sugar Co. forfeited 263.1 million pounds of sugar during May, June, and July 1985 to the CCC. They are not expected to forfeit any additional sugar. As of August 27, 1985, the CCC has not received any additional notices of intent to forfeit sugar. However, the CCC had earlier extended the maturity date for several loans from July 31 to September 30 in order to prevent forfeiture on loans totaling 73.6 million pounds of raw sugar.

Quotas on sugar imports

Headnote 2 to subpart A, part 10, schedule 1 of the TSUS authorizes the President to proclaim quotas on imports of sugar whenever the Sugar Act of 1948 or substantially equivalent legislation is not in effect. The Sugar Act of 1948 expired on December 31, 1974. The President proclaimed a global nonrestrictive quota, effective January 1, 1975.

Effective May 11, 1982, the President proclaimed (Presidential Proclamation No. 4941) a country-by-country restrictive import system. The overall quota is allocated among specified countries according to percentages expressed in the proclamation (the allocations were based on U.S. imports during 1975-81, a period when no restrictive import quotas were in effect). 1/

The proclamation contained several provisions for the modification of the quota system. The Secretary of Agriculture is authorized to establish minimum quotas for specified countries to provide them reasonable access to the U.S. sugar market, to provide for quota periods other than quarterly quota periods, and to provide for the carrying forward of unused quota amounts into subsequent quota periods. The United States Trade Representative may modify the country-by-country allocation provisions and may prescribe further rules, limitations, or prohibitions on the entry of sugar if he finds such actions are appropriate to carry out the obligations of the United States under the International Sugar Agreement or any successor agreement. 2/

Initially, the quotas were established on a quarterly basis; beginning October 1, 1982, they were put on an October 1-September 30 quota year. Quota amounts and changes in the quota system are shown in appendix C. The aggregate quota for the current year is 2,675,000 short tons, raw value (plus 1,840 tons of "specialty" sugar). The current quota year covers the period October 1, 1984-November 30, 1985. The country-by-country quotas are shown in table 6. Imports under the quota system must be accompanied by country-of-origin certificates issued by the USDA. The certificates are issued in accordance with a previously announced quarterly shipping distribution plan.

Sugar for use in the production of polyhydric alcohols and sugar to be reexported in refined form or in sugar-containing products is exempt from the quotas, pursuant to headnote 3(ij), subpart A, part 10, schedule 1, of the TSUS. Such sugar must be imported in conformance with regulations issued by the USDA.

The CBERA of 1983 provides for annual absolute quotas on duty-free imports of sugar into the United States from the Dominican Republic, Guatemala, and Panama, effective January 1, 1984, as follows:

Source	Quota (metric tons)
Dominican Republic	780,000
Guatemala	210,000
Panama	160,000
Total	1,150,000

The Dominican Republic has been ineligible for duty-free treatment under the GSP system since its inception; Guatemala and Panama have been on and off the list of eligible countries. Other CBERA countries are eligible to request duty-free quota allocations.

1/ The quota allocations are shown in headnote 3, subpt. A, pt. 10, schedule 1, of the TSUS.

2/ The current administrative agreement contains no economic provisions.

Table 6.--Sugar: U.S. import quota allocations, by countries, in effect Oct. 1, 1984-Nov. 30, 1985

(In short tons, raw value)

Country	Quota allocation
Argentina	109,220
Australia	210,820
Barbados	17,780
Belize	27,940
Bolivia	20,320
Brazil	368,300
Canada	27,940
Colombia	60,960
Congo	12,500
Costa Rica	52,302
Dominican Republic	447,040
Ecuador	27,940
El Salvador	74,561
Fiji	17,780
Gabon	12,500
Guatemala	121,920
Guyana	30,480
Haiti	12,500
Honduras	50,017
India	20,320
Ivory Coast	12,500
Jamaica	27,940
Malagasy Republic	12,500
Malawi	35,400
Mauritius	27,940
Mexico	12,500
Mozambique	33,020
Nicaragua	6,000
Panama	73,660
Papua New Guinea	12,500
Paraguay	12,500
Peru	104,140
Philippines	342,900
St. Christopher-Nevis	12,500
South Africa	58,420
Swaziland	40,640
Taiwan	30,480
Thailand	35,560
Trinidad-Tobago	17,780
Uruguay	12,500
Zimbabwe	30,480
Total	2,675,000

Source: U.S. Department of Agriculture.

Articles Containing Sugar and Covered by Emergency Quotas and Not Excluded From the Quotas by Proclamation No. 5340

TSUS item 958.16

Description and uses.--Proclamation No. 5294 of January 28, 1985, modified the TSUS by inserting TSUS item number 958.16 into the appendix. Item 958.16 covers articles provided for in TSUS item 156.45, which covers imports of sweetened cocoa.

Cocoa is pulverized cocoa cake, the product that remains after cocoa butter has been removed from chocolate liquor. The U.S. Customs Service classifies mixtures of cocoa powder and sugar in TSUS item 156.45 only if they contain less than 65 percent by weight of sugar. Such mixtures containing from 65 to 75 percent sugar are classified in TSUS item 183.05 (as an edible preparation, not specially provided for), those containing from 75 to 90 percent sugar are classified in TSUS item 155.75 (as flavored sugar), and those containing more than 90 percent sugar are classified in TSUS item 155.20 (as sugar). 1/ Products imported under item 156.45 usually contain at least 50 percent sugar. Sweetened cocoa is used as an ingredient in the production of confectionery, confectionery coatings, and beverage cocoa preparations.

U.S. tariff treatment.--Imports of sweetened cocoa are free of duty if from countries receiving most-favored-nation (MFN) or column 1 treatment; imports from designated Communist-dominated countries or areas are dutiable under column 2 at 40 percent ad valorem.

U.S. production and consumption.--Separate annual data on U.S. production and consumption of sweetened cocoa are not available; however, based on data reported in the 1982 Census of Manufactures, production is estimated to have declined from 193 million pounds in 1980 to 169 million pounds in 1984 (table 7). Consumption is estimated to have remained in a narrow range of from 181 million to 192 million pounds annually during 1980-84.

U.S. imports.--In the years 1980-84, total U.S. imports of sweetened cocoa increased from 432,000 pounds, valued at $170,000, to 22 million pounds, valued at $9 million (table 8). In January-June 1985, imports amounted to 7 million pounds compared with 9 million pounds in the corresponding period of 1984. The major import sources have varied considerably. In 1984, they were Canada, Brazil, and Costa Rica.

TSUS item 958.16 provides for a quota on imports of sweetened cocoa of 1,000 short tons (2 million pounds) during the period January 29, 1985-September 30, 1985, and 3,000 short tons for each 12-month period thereafter. As of August 16, 1985, 1,976,306 pounds (or 98.8 percent of the quota) had been entered.

Issues raised in the investigation.--The USDA indicated that the sugar in sweetened cocoa "could directly displace domestically available sugars through extraction from dry mixtures." 2/ The Chocolate Manufacturers Association

1/ U.S. Customs Service letter of July 24, 1980.
2/ Posthearing submission of the USDA, response to question 56.

Table 7.--Sweetened cocoa: U.S. producers' shipments, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980-84

(Quantity in thousands of pounds; value in thousands of dollars; unit value per pound)

Year	Producers' shipments 1/	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1980	193,200	1,726	432	191,906	2/
1981	191,060	2,085	1,681	190,656	1
1982	183,800	2,282	4,293	185,811	2
1983	176,600	3,070	7,421	180,951	4
1984	169,300	3,148	22,023	188,175	12
	Value				
1980	3/	1,949	170	-	-
1981	3/	2,184	1,315	-	-
1982	3/	2,203	2,918	-	-
1983	3/	2,763	3,371	-	-
1984	3/	2,770	9,380	-	-
	Unit value				
1980	3/	$1.13	$0.39	-	-
1981	3/	1.05	.78	-	-
1982	3/	.97	.68	-	-
1983	3/	.90	.45	-	-
1984	3/	.88	.43	-	-

1/ Data are estimates based on actual shipments reported in the 1972, 1977, and 1982 Census of Manufactures.
2/ Less than 0.5 percent.
3/ Not available.

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

Table 8.--Sweetened cocoa: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Canada	3	0	553	4,414	20,836	7,810	5,585
Brazil	22	0	0	2	551	551	0
Ecuador	0	1,634	3,401	2,087	66	0	675
C Rica	44	0	0	191	240	120	40
Dom Rep	315	45	136	540	67	45	100
Fr Germ	0	0	40	44	95	73	25
U King	1/	1/	1/	0	48	44	0
Nethlds	0	1	3	29	47	47	132
Switzld	10	0	6	50	15	2	0
Phil R	0	0	1/	0	41	40	0
All other	39	1	153	65	18	9	47
Total	432	1,681	4,293	7,421	22,023	8,741	6,604
	Value (1,000 dollars)						
Canada	2	-	128	1,349	8,325	2,926	2,270
Brazil	20	-	-	1/	606	606	-
Ecuador	-	1,284	2,631	1,640	88	-	771
C Rica	22	-	-	53	85	39	12
Dom Rep	88	28	56	138	68	33	70
Fr Germ	-	-	19	21	59	48	19
U King	1/	1/	1/	-	57	53	-
Nethlds	-	1/	2	36	27	27	144
Switzld	12	-	10	75	24	4	-
Phil R	-	-	1/	-	21	20	-
All other	25	2	69	59	22	10	39
Total	170	1,315	2,918	3,371	9,380	3,765	3,325
	Unit value (per pound)						
Canada	$0.94	-	$0.23	$0.31	$0.40	$0.37	$0.41
Brazil	0.91	-	-	0.21	1.10	1.10	-
Ecuador	-	0.79	0.77	0.79	1.33	-	1.14
C Rica	0.50	-	-	0.28	0.35	0.33	0.31
Dom Rep	0.28	0.63	0.41	0.26	1.01	0.74	0.70
Fr Germ	-	-	0.48	0.48	0.62	0.65	0.76
U King	0.98	2.29	1.58	-	1.20	1.21	-
Nethlds	-	0.82	0.77	1.25	0.58	0.58	1.09
Switzld	1.31	-	1.55	1.52	1.58	1.70	-
Phil R	-	-	18.69	-	0.50	0.51	-
All other	0.65	1.63	0.45	0.91	1.22	1.11	0.83
Average	0.39	0.78	0.68	0.45	0.43	0.43	0.50

1/ Less than 500.

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

states that "the fact alone that imports of sweetened cocoa have increased explosively since the sugar quota was imposed in 1982 proves that these products are being imported principally for their sugar content." 1/

TSUS item 958.17

Description and uses.--Proclamation No. 5294 of January 28, 1985, modified the TSUS by inserting TSUS item 958.17 into the appendix. TSUS item 958.17, as set forth in Proclamation No. 5294, covers articles provided for in TSUS item 183.01 that contain sugar and that are not within the scope of other section 22 import restrictions (i.e., articles other than those which contain over 65 percent sugar, are commercially capable of being further processed or mixed with similar or other ingredients, and are not prepared for marketing to the retail consumers in the identical form and package in which imported).

TSUS item 183.01 provides for pancake flour and other flour mixes and refrigerated doughs. These flour mixes and doughs are used to make a wide range of baked articles. Nearly all of the articles classified in TSUS item 183.01 contain some sugar; most are believed to contain at least 10 percent sugar. There is no known domestic or international trade in such articles that contain over 65 percent sugar (within the scope of item 958.15 and thus not included in this investigation). Refrigerated doughs are believed to be the only products included in item 183.01 that meet the exemption from the quota under item 958.17, which was added by Proclamation No. 5340 for articles "not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to retail consumers in the identical form and package in which imported."

U.S. tariff treatment.--Imports under TSUS item 183.01 are dutiable under column 1 at 10 percent ad valorem and under column 2 at 20 percent ad valorem. Imports from designated beneficiary countries are eligible for duty-free treatment under the GSP, as are imports from eligible countries under the CBERA. The column 1 rate was not reduced in the Tokyo round of the Multilateral Trade Negotiations.

TSUS item 958.17 provides for a quota on articles containing sugar provided for in TSUS item 183.01. The quota, effective January 29, 1985, is a global, first-come-first-served quota of 2,500 short tons for the period January 29, 1985-September 30, 1985, and 7,000 short tons for each 12-month period thereafter. The quota was amended effective May 19, 1985, by Proclamation No. 5340. 2/

U.S. production and consumption.--According to data reported in the 1982 Census of Manufactures, U.S. production and consumption of flour mixes is both large and growing; however, separate annual data are not available. In 1982, the latest year for which data are available, shipments from U.S. producers were valued at $2.1 billion, compared with shipments of $1.5 billion in 1977. Shipments of the largest product category, cake mixes, amounted to 870 million pounds, valued at $604 million.

1/ Posthearing brief of the Chocolate Manufacturers Association of the United States of America, pp. 4 and 5.

2/ The quota provisions, as proclaimed by Proclamation No. 5294 and as revised by Proclamation No. 5340 are shown in app. D.

U.S. imports.--Total U.S. imports of pancake flour and other flour mixes including refrigerated doughs declined from 13.8 million pounds, valued at $3.5 million, in 1980 to 8.7 million pounds, valued at $2.9 million, in 1982. They then increased, amounting to 19.4 million pounds, valued at $8.2 million in 1984 (table 9). In January-June 1985, imports amounted to 9.6 million pounds compared with 9.3 million pounds in the corresponding period of 1984. Canada was by far the largest supplier. It is believed that virtually all of the imported products contained sugar; however, data are not available on the sugar content of the articles.

TSUS item 958.17 provides for a quota of 2,500 short tons (5 million pounds) on articles containing sugar and classified in TSUS item 183.01 to be entered during January 29, 1985-September 30, 1985. As of August 16, 1985, 4,156,736 pounds (or 83.1 percent of the quota) had been entered.

Issues raised in the investigation.--In response to the question as to how imports of flour mixes are practically certain to materially interfere with the price-support program, the USDA responded that the sugar in such mixes "could directly substitute for domestically available sugars through extraction from dry mixtures." 1/ The Canadian Sugar Institute 2/ points out that the U.S. Customs Service issued a ruling on November 6, 1984, which banned all further importation of blends of sugar and other ingredients if the sugar is to be separated after importation or if there is to be the addition or removal of any sugar, or the addition or removal of other ingredients in the mixture; i.e., a mixture of sugar and other ingredients can be imported only if it is to be used exactly in the form in which it is imported.

TSUS item 958.18

Description and uses.--Proclamation No. 5294 of January 28, 1985, modified the TSUS by inserting item 958.18 into the appendix. TSUS item 958.18, as set forth in Proclamation No. 5294, covers articles provided for in TSUS item 183.05 that contain sugar and are not within the scope of other section 22 import restrictions.

TSUS item 183.05 is a residual or "basket" provision covering edible preparations not specially provided for. Included here are blends of sugar and other sweeteners (e.g., dextrose) and the following articles that often contain over 10 percent sugar on a dry-weight basis: sweetened iced tea mixes, beverage bases (often fruit flavored), cocktail mixes, whipped cream substitutes, other dessert toppings, coffee whiteners, canned pie fillings (fruit, sweetener, and starch), white chocolate, marzipans (nut paste/sugar), unbaked frozen pastries, frosting mixes, cake decorations, various bakery additives, and minced seafood preparations.

1/ Posthearing submission of the USDA, response to question 56.
2/ Posthearing brief of the Canadian Sugar Institute, p. 2.

Table 9.--Pancake flour and other flour mixes including refrigerated doughs: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Canada	13,251	10,406	6,317	10,856	16,252	7,939	7,258
Phil R	295	957	727	916	962	398	363
Japan	89	562	747	1,015	1,065	621	612
Fr Germ	68	50	110	64	297	51	482
Austral	0	0	0	0	183	0	6
Hg Kong	3	34	81	68	98	38	108
France	0	3	23	53	127	107	109
China 1/	4	4	36	111	125	32	105
Denmark	0	0	3	1	51	0	0
Belgium	18	0	2	0	67	6	346
All other	120	86	615	1,042	222	114	178
Total	13,849	12,104	8,662	14,126	19,448	9,306	9,567
	Value (1,000 dollars)						
Canada	3,092	2,187	1,540	3,971	6,446	3,436	3,055
Phil R	185	565	465	576	594	243	234
Japan	62	379	464	596	580	326	319
Fr Germ	102	54	121	57	106	47	117
Austral	-	-	-	-	87	-	6
Hg Kong	2	26	58	40	86	42	93
France	-	3	19	43	79	70	80
China 1/	2	3	32	78	72	23	98
Denmark	-	-	2	1	33	-	-
Belgium	6	-	4	-	32	2	151
All other	78	64	204	239	134	54	95
Total	3,529	3,281	2,908	5,601	8,250	4,242	4,247
	Unit value (per pound)						
Canada	$0.23	$0.21	$0.24	$0.37	$0.40	$0.43	$0.42
Phil R	0.63	0.59	0.64	0.63	0.62	0.61	0.64
Japan	0.69	0.67	0.62	0.59	0.54	0.52	0.52
Fr Germ	1.49	1.08	1.10	0.90	0.36	0.93	0.24
Austral	-	-	-	-	0.48	-	1.02
Hg Kong	0.80	0.74	0.71	0.59	0.88	1.10	0.85
France	-	0.93	0.82	0.82	0.62	0.65	0.73
China 1/	0.67	0.68	0.88	0.71	0.58	0.71	0.93
Denmark	-	-	0.53	0.58	0.64	-	-
Belgium	0.34	-	2.12	-	0.48	0.33	0.44
All other	0.65	0.74	0.33	0.23	0.60	0.47	0.54
Average	0.25	0.27	0.34	0.40	0.42	0.46	0.44

1/ Less than 500.

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

Presidential Proclamation No. 5340 modified TSUS item 958.18 to exclude from the quotas articles containing not over 10 percent of sugar and the following articles from TSUS item 183.05:

> cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with those sugars; and minced seafood preparations within the scope of item 183.05 containing 20 percent or less by dry weight of those sugars.

U.S. tariff treatment.--The current rates of duty applicable to imported articles provided for in item 183.05 are 10 percent ad valorem under column 1 and 20 percent ad valorem under column 2. The column 1 rate was not reduced in the Tokyo round of the Multilateral Trade Negotiations. Imports from designated beneficiary countries are eligible for duty-free treatment under the GSP, as are imports from eligible countries under the CBERA.

TSUS item 958.18 provides for a quota for certain articles containing sugar provided for in TSUS item 183.05. The quota, effective January 29, 1985, is a global, first-come-first-served quota of 28,000 short tons for the period January 29, 1985-September 30, 1985, and 84,000 short tons for each 12-month period thereafter. The quota was amended effective May 19, 1985, by Proclamation No. 5340. 1/

U.S. production and consumption.--Annual data on U.S. production and consumption of the articles in TSUS item 183.05 considered here are not available. However, such production and consumption are known to be very large and still growing because of the increased demand for prepared convenience and specialty foods.

U.S. imports.--Total U.S. imports of the edible preparations not specially provided for that are included in TSUS item 183.05 increased from 50 million pounds, valued at $36 million, in 1980 to 391 million pounds, valued at $180 million, in 1984 (table 10). In January-June 1985, imports amounted to 159 million pounds compared with 155 million pounds in the same period in 1984. The major import sources during 1980-84 have been Japan, Canada, and the Dominican Republic.

Effective June 29, 1983, imports of articles provided for in TSUS item 183.05 were subject to a zero quota if they contained over 65 percent by dry weight of sugar, they were commercially capable of being further processed or mixed with similar or other ingredients, and they were not prepared for marketing to retail consumers in the identical form and package in which imported (TSUS item 958.15). 2/

1/ The quota provisions, as proclaimed by Proclamation No. 5294 and as revised by Proclamation No. 5340, are shown in app. D.

2/ Pertinent parts of the TSUS are reproduced in app. E.

Table 10.--Edible preparations, nspf: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Japan	7,376	10,920	15,280	24,953	45,705	21,603	24,099
Canada	9,150	11,472	10,839	57,722	247,846	87,701	71,729
Dom Rep	11,385	22,280	21,166	16,143	16,851	10,681	5,077
Mexico	2,753	8,105	5,214	5,545	6,621	3,213	3,320
China t	4,288	6,496	7,007	7,760	8,603	4,374	3,924
Thailnd	851	2,673	3,289	5,005	6,869	3,296	6,131
Italy	260	711	1,670	2,388	3,982	2,096	2,169
Switzld	780	1,331	1,646	3,032	2,835	1,292	957
Kor Rep	972	2,664	5,032	5,141	7,033	3,709	4,548
Argent	256	69	942	2,597	3,413	1,675	2,014
All other	11,719	17,672	18,792	49,908	41,561	15,062	34,895
Total	49,791	84,392	90,873	180,193	391,317	154,703	158,863
	Value (1,000 dollars)						
Japan	8,175	14,168	20,567	34,268	67,812	32,700	34,047
Canada	4,452	9,466	6,731	23,514	47,459	18,205	22,060
Dom Rep	3,445	7,245	7,797	6,448	6,580	4,060	2,100
Mexico	1,623	6,253	3,289	4,993	6,485	3,506	3,121
China t	2,872	4,956	5,714	6,316	6,359	3,147	2,640
Thailnd	699	2,184	2,452	3,692	4,408	2,235	2,772
Italy	342	713	1,343	2,665	4,347	2,219	2,661
Switzld	1,256	2,246	2,331	3,376	4,095	1,993	1,379
Kor Rep	491	1,511	2,727	2,715	4,081	1,991	2,842
Argent	282	72	472	1,503	2,625	1,092	2,431
All other	12,086	17,586	17,497	21,747	25,528	11,461	14,801
Total	35,723	66,401	70,918	111,237	179,780	82,610	90,853
	Unit value (per pound)						
Japan	$1.11	$1.30	$1.35	$1.37	$1.48	$1.51	$1.41
Canada	0.49	0.83	0.62	0.41	0.19	0.21	0.31
Dom Rep	0.30	0.33	0.37	0.40	0.39	0.38	0.41
Mexico	0.59	0.77	0.63	0.90	0.98	1.09	0.94
China t	0.67	0.76	0.82	0.81	0.74	0.72	0.67
Thailnd	0.82	0.82	0.75	0.74	0.64	0.68	0.45
Italy	1.31	1.00	0.80	1.12	1.09	1.06	1.23
Switzld	1.61	1.69	1.42	1.11	1.44	1.54	1.44
Kor Rep	0.50	0.57	0.54	0.53	0.58	0.54	0.62
Argent	1.10	1.05	0.50	0.58	0.77	0.65	1.21
All other	1.03	1.00	0.93	0.44	0.61	0.76	0.42
Average	0.72	0.79	0.78	0.62	0.46	0.53	0.57

1/ Less than 500.

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

Effective January 29, 1985, Presidential Proclamation No. 5294 established a quota of 28,000 short tons on imports of other articles classified in TSUS item 183.05 that contain sugar for the period January 29, 1985, through September 30, 1985. That quota was filled on March 6, 1985. Effective May 19, 1985, the quota coverage was revised to exempt certain sugar-containing articles from the quotas.

Issues raised in the investigation.--In response to the question as to how imports of edible preparations, n.s.p.f. are practically certain to materially interfere with the price-support program, the USDA responded that the "sugar content could directly displace use of domestic sugars through product manipulation or extraction from dry mixtures." 1/ The Canadian Sugar Institute 2/ pointed out that the U.S. Customs Service issued a ruling on November 6, 1984, which banned all further importation of blends of sugar and other ingredients if the sugar is to be separated after importation or if there is to be the addition or removal of any sugar, or the addition or removal of other ingredients in the mixture; i.e., a mixture of sugar and other ingredients can be imported only if it is to be used exactly in the form in which it is imported.

The USDA indicated that the quota levels established in January were intended to be aggregate levels for all articles containing sugar and that the quota quantities should be reduced by an amount equal to the volume of imports exempted from the quota in May. 3/

Articles Containing Sugar and Covered by Emergency Quotas and Excluded From the Quotas by Proclamation No. 5340

Presidential Proclamation No. 5340 modified the import quotas for TSUS items 958.16, 958.17, and 958.18 to exclude from the quota coverage (1) articles containing not over 10 percent by dry weight of sugar, (2) articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to retail consumers in the identical form and package in which imported, and (3) the following articles provided for in TSUS item 183.05: cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with sugar; and minced seafood preparations containing 20 percent or less by dry weight of sugar. 4/

Issues raised in the investigation

The USDA indicated that the articles that were included in the quotas established by Presidential Proclamation No. 5294 and excluded from the

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1/ Posthearing submission of the USDA, response to question 56.
2/ Posthearing brief of the Canadian Sugar Institute, p. 2.
3/ Posthearing submission of the USDA, responses to questions 17 and 38; transcript of hearing, p. 39.
4/ See app. D for the quotas as established by Proclamation No. 5294 and as modified by Proclamation No. 5340.

quotas by Proclamation No. 5340 are not interfering with the price-support program. Specifically, USDA stated that, "Articles with a 10 percent or less sugar content by dry weight should not be subject to import controls..." 1/ It was further stated that, "In modifying the emergency quotas in May 1985, exemptions were established for certain products which were believed not to have the potential for materially interfering with the Department's domestic price support operation." 2/

Several submissions supported the viewpoint that the articles specifically exempted from the quotas should remain exempted. 3/

One firm, Raymond Foods, Inc., a U.S. producer of cake decorations, objected to the specific exemption from the import restrictions for cake decorations. Raymond Foods, however, recommended the imposition of an import fee on such articles rather than a quota. 4/

The U.S. Beet Sugar Association 5/ stated that "the nature of the articles containing sugar which threaten the price support program should not be mistaken. . . . It would be a mistake to treat fully processed and retail package imports as not an integral part of the imports undermining the sugar price support program. Whether imported products are fully processed so that sugar may not be easily separated from such products is not a meaningful issue. Such imports are occurring because of the low world price of sugar in an effort to avoid the existing sugar quotas, and such imports affect the price of sugar directly and by displacement of U.S. produced sugar, and materially interfere with the U.S. price support program. Further, a blanket exemption from sugar quotas for products imported in retail packages is unjustified and unwarranted, and would undermine the quotas in place. These products interfere with the price support program equally as products which are imported in bulk form."

TSUS item 958.16

TSUS item 958.16 provides for a quota on articles containing sugar provided for in TSUS item 156.45, which covers imports of sweetened cocoa. For all practical purposes, the quota revisions of Proclamation No. 5340 do not affect articles classified in item 156.45. All sweetened cocoa is principally of crystalline structure or in dry amorphous form; there has been no domestic or foreign trade in sweetened cocoa that contains not over 10 percent by dry weight of sugar.

1/ Posthearing submission of the USDA, response to question 29.
2/ Posthearing submission of the USDA, response to question 53.
3/ E.g., Comments submitted by the Canadian Frozen Food Association, July 24, 1985, p. 2; Posthearing brief of Chocosuisse, p. 8; The National Association for the Specialty Food Trade, Inc., pp. 9-10; The Korean Traders Association, p. 3; CAOBISCO, p. 9; Grand Specialties, Inc., p. 9.
4/ Posthearing statement of Raymond Foods, p. 4.
5/ Posthearing brief of the United States Beet Sugar Association, pp. 2-4.

TSUS item 958.17

TSUS item 958.17 provides for a quota on articles containing sugar provided for in TSUS item 183.01, which covers pancake flour and other flour mixes, including refrigerated doughs. The quota revisions, exempting articles containing not over 10 percent sugar and exempting those articles not principally of crystalline structure or not in dry amorphous form and packaged for retail sale, are believed to apply only marginally to U.S. import trade under TSUS item 183.01. Most of the flour mixes contain over 10 percent sugar; exceptions are pancake flour mixes and dumpling mixes. Refrigerated doughs are not principally of crystalline structure or in dry amorphous form and therefore are exempt from the quotas if packaged for retail sale. However, imports of such refrigerated doughs have been negligible according to the data from the importers' questionnaires.

TSUS item 958.18

TSUS item 958.18 provides for a quota on articles containing sugar provided for in TSUS item 183.05, which covers edible preparations not specially provided for elsewhere in the tariff schedules. TSUS item 183.05 is a broad residual or "basket" provision that includes many articles containing sugar. The modifications to the quota under TSUS item 958.18 effected by Proclamation No. 5340 affect a significant amount of trade in articles classified in TSUS item 183.05. The revision exempting articles containing not over 10 percent sugar applies to several products including frozen pizzas, ramen (oriental noodles with a soup base), and cracker sandwiches. Data from the importers' questionnaires show that imports entitled to this exemption increased from 2 million pounds, valued at $2 million, in 1982 to 5 million pounds, valued at $3 million, in 1984. These imports consisted mainly of oriental food products; the major source was Japan.

The exemption for cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections applies to (1) candy-type decorations (e.g., candleholders and ball-shaped and rod-shaped colored decorations) and (2) frosting mixes. These products generally contain over 65 percent sugar and are often imported in bulk. They were administratively determined by the U.S. Customs Service 1/ to be not within the intended scope of the zero quota under TSUS item 958.15, since they were finished end products and incapable (in a commercially feasible manner) of being either further processed or mixed with similar or other ingredients.

The exemption for ground or masticated coconut meat, or juice thereof, mixed with sugar applies to several canned preparations used principally as mixes for making pina coladas. The exemption also applies to coconut milk mixed with sugar. Imports of such coconut products have decreased from 19 million pounds, valued at $8 million, in 1982 to 15 million pounds, valued at $6 million, in 1984, according to questionnaire data; the sole source was the Dominican Republic. There is no known domestic production of such articles.

1/ See U.S. Customs Service letter No. 073292 LCS, dated Nov. 7, 1984, a copy of which is reproduced in app. F.

The exemption for minced seafood preparations containing 20 percent or less by dry weight of sugar applies to several "imitation" shellfish products. Such products are mixtures of minced fish and minced shellfish, mixed with other ingredients, including sugar; these products often are formed into shellfish forms (e.g., crab legs, lobster, or shrimp) and are classified under TSUS item 183.05 because as mixtures of fish and shellfish they are not classifiable as either fish preparations or shellfish preparations. Sugar is used in the products as a binder and to obtain a flavor more closely resembling that of the shellfish being imitated. Data on imports of such minced seafood preparations are not available; however, imports of such articles are believed to have totaled from 5 to 10 million pounds annually in recent years. Beginning on January 1, 1985, a statistical annotation for such preparations was provided in the TSUSA. During January-June 1985, imports totaled 12 million pounds, valued at $17 million. It should be noted that imports under this item were prohibited from March 7, 1985 through May 18, 1985. On May 19, 1985, imports under TSUSA item 183.0505 were exempted from the quota under TSUS item 958.18. Data on imports of these minced seafood products from the importers' questionnaires indicate an increase from 1982 to 1984--from 2 million pounds, valued at $3 million, to 8 million pounds, valued at $14 million. The sole source of imports was Japan.

Articles Containing Sugar and Included in the Scope of the President's Letter Requesting the Investigation but Not Included in Emergency Quotas

The President's letter of March 22, 1985, directed the Commission to conduct an investigation under section 22 of the Agricultural Adjustment Act regarding imports under TSUS items 155.35, 156.47, 157.10, 182.90, 182.92, and 184.7070, to the extent that such articles contain sugar derived from sugarcane or sugar beets and are not within the scope of other import restrictions under section 22. The following section of this report discusses such articles, by TSUS item, in numerical sequence.

Molasses

Description and uses.--TSUS item 155.35 covers molasses derived from sugarcane or sugar beets. The term "molasses" covers all sugar, syrups, and molasses, containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to over 6 percent by weight of the total soluble solids.

In world trade and commerce, the term "molasses" generally refers to the by-product of the extraction of sugar from solution in the processing of sugar beets, the milling of sugarcane, or the refining of raw sugar. Molasses (unless dried) is a viscous liquid of dark color with a significant sugar content generally over 48 percent. However, in world trade and commerce there are some products known as "molasses" that are not by-products (e.g., Barbados

Fancy Molasses and high-test or invert molasses, which are direct products of milling sugarcane from which no sugar is extracted). Another product that is known as "molasses" is cane-juice molasses, which is the juice of sugarcane, partially inverted into dextrose and fructose. A product not covered by the term "molasses" is a blend of molasses and cane sugar syrup, which is classified under TSUS item 155.75.

U.S. tariff treatment.--Imports under TSUS item 155.35 are dutiable under column 1 at 2.9 cents per gallon and under column 2 at 6.8 cents per gallon. Molasses imported from beneficiary developing countries under TSUS item 155.35 is eligible for duty-free treatment under the GSP. Molasses from eligible countries under the CBERA of 1983 is eligible for duty-free entry.

U.S. production and consumption.--U.S. production of molasses declined from 22,000 short tons in 1980 to 15,000 short tons in 1982 and then rose to 17,000 tons in 1983, the last year complete data are available (table 11). The production of molasses usually follows the trend in sugar deliveries which also declined over the period 1980-82.

Domestic consumption of molasses declined from 42,000 short tons in 1980 to 30,000 short tons in 1982, before rising to 31,000 in 1983 (the last year complete data are available). It is likely that domestic consumption of molasses has increased since then because new products, such as soft cookies, have been developed that use molasses as an ingredient.

Table 11.--Molasses for human consumption: U.S. production, imports, and apparent consumption, 1980-84

Year	Production 1/			Imports	Apparent consumption 2/	Ratio of imports to consumption
	Edible molasses	Refiners' syrup	Total			
	1,000 short tons					Percent
1980	10	12	22	20	42	48
1981	12	8	20	12	32	38
1982	9	6	15	15	30	50
1983	11	6	17	14	31	45
1984 4/	12	3/	3/	21	3/	3/

1/ Production of edible molasses is as of the fall of the preceding year.
2/ Exports are not separately reported, but are believed to be negligible.
3/ Not available.
4/ Preliminary.

Source: Production, compiled from official statistics of the U.S. Department of Agriculture; imports, compiled from official statistics of the U.S. Department of Commerce.

U.S. imports.--U.S. imports of molasses for human consumption declined from 20,000 short tons in 1980 to 12,000 short tons in 1981 and then rose irregularly to 21,000 short tons in 1984. During January-June 1985, U.S. imports of molasses totaled 15,000 short tons compared with 16,000 short tons during the same period in 1984 (table 12). Barbados and the Dominican Republic were the leading suppliers of this high-priced, specialty molasses.

Issues raised in the investigation.--In response to the question as to how imports under TSUS item 155.35 are practically certain to materially interfere with the price-support program, the USDA stated that "syrups could directly substitute for use of domestic sugars derived from sugarcane or sugar beets." 1/ Ingredient Technology Corp. and the International Sugar Policy Coordinating Commission of the Dominican Republic 2/ pointed out that TSUS item 155.35 provides for both syrups and molasses, that they are separate products, and that molasses does not compete with sugar or syrups. Articles included in TSUS item 155.35 (including edible molasses, cane-juice molasses, and refiners syrups) contain soluble nonsugar solids which provide distinct flavors. Amstar Corp. 3/ states that it "is not aware of any practices relating to the importation of edible molasses that appear to be interfering with the domestic price support program." The Keebler Co. 4/ and the Biscuit and Cracker Manufacturer's Association 5/ indicate that edible molasses is used in the baking industry to provide flavor and not for the sucrose content; furthermore, they are not aware of any molasses being used for the extraction of sugar in the United States.

Confectioners' coatings

Description and uses.--Confectioners' coatings differ from chocolate coatings in that powdered cocoa, vegetable fat, and nonfat milk solids have largely been used instead of chocolate liquor, cocoa butter, and whole milk solids. There are two main types of confectioners' coatings--namely, summer coatings, used principally in confectionery with a higher melting point than chocolate coatings, and ice cream bar coatings, with a lower melting point than chocolate coatings. Chocolate coatings have been replaced to some extent by summer coatings on lower priced confectionery and almost entirely by ice cream bar coatings on ice cream and similar items. Both types of confectioners' coatings are generally lower priced than chocolate coatings. TSUS item 156.47 also provides for other products (except confectionery) if they contain not less than 6.8 percent nonfat solids of the cocoa bean nib and not less than 15 percent of vegetable fats other than cocoa butter (e.g., imitation chocolate chips).

1/ Posthearing submission of the USDA, response to questions 30, 47, and 56.
2/ Supplemental comments of the International Sugar Policy Coordinating Commission of the Dominican Republic (Aug. 23, 1985) and supplemental comments of Ingredient Technology Corp. (Aug. 22, 1985).
3/ Posthearing brief of Amstar Corp., p. 3.
4/ Letter dated July 24, 1985.
5/ Letter dated July 19, 1985.

Table 12.--Edible molasses: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 gallons)						
Dom Rep	1,983	976	1,498	2,024	2,599	2,039	1,744
Barbado	1,130	952	948	276	756	600	110
Canada	33	19	18	30	56	12	50
Singapr	5	0	0	0	62	62	0
F W Ind	6	17	20	3	3	1	0
China M	7	3	2	2	3	0	0
Fr Germ	1	1	1	1	2	1/	0
France	0	0	0	0	12	1/	0
U King	2	1/	1	1/	1	1	0
Brazil	0	0	75	0	2	0	0
All other	256	70	3	1/	1/	1/	739
Total	3,421	2,038	2,566	2,336	3,495	2,715	2,643
	Value (1,000 dollars)						
Dom Rep	3,814	1,591	1,522	2,425	2,615	2,061	1,672
Barbado	3,798	3,599	2,423	1,213	2,065	1,348	446
Canada	111	74	62	95	147	37	151
Singapr	2	-	-	-	104	103	-
F W Ind	17	97	123	19	17	5	-
China M	8	6	5	3	8	-	-
Fr Germ	5	3	5	7	5	2	-
France	-	-	-	-	5	1	-
U King	4	2	2	1/	1	1	-
Brazil	-	-	57	-	1	-	-
All other	253	147	4	1	1	1	577
Total	8,012	5,519	4,202	3,762	4,969	3,559	2,846
	Unit value (per gallon)						
Dom Rep	$1.92	$1.63	$1.02	$1.20	$1.01	$1.01	$0.96
Barbado	3.36	3.78	2.55	4.40	2.73	2.25	4.04
Canada	3.38	3.88	3.48	3.17	2.63	3.08	3.02
Singapr	0.36	-	-	-	1.68	1.67	-
F W Ind	2.77	5.54	6.02	6.55	6.53	6.02	-
China M	1.21	2.09	2.22	1.70	2.73	-	-
Fr Germ	6.68	6.03	5.46	5.64	2.96	4.29	-
France	-	-	-	-	0.38	9.34	-
U King	2.41	5.93	3.18	4.60	1.07	0.89	-
Brazil	-	-	0.76	-	0.53	-	-
All other	0.99	2.09	1.37	2.44	25.93	18.17	0.78
Average	2.34	2.71	1.64	1.61	1.42	1.31	1.08

1/ Less than 500.

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

Note: There are 11.72 pounds per gallon.

U.S. tariff treatment.--The current rates of duty applicable to imported confectioners' coatings and other products provided for in TSUS item 156.47 are 2.5 percent ad valorem under column 1 and 35 percent ad valorem under column 2. Imports from all beneficiary developing countries are eligible for duty-free treatment under the GSP, as are imports from eligible countries under the CBERA. The column 1 rate was not modified in the Tokyo round of the Multilateral Trade Negotiations.

U.S. production and consumption.--During 1980-84, it is estimated that producers' shipments increased over 40 percent and apparent consumption increased over 55 percent (table 13). Producers' shipments increased from 109 million pounds in 1980 to 157 million in 1984. Apparent consumption also increased from 103 million pounds in 1980 to 162 million in 1984. U.S. exports of confectioners' coatings decreased irregularly from 7.3 million pounds in 1980 to 6.3 million pounds in 1984. The United States was a net exporter of confectioners' coatings during 1980-83. In 1984, the United States was a net importer of confectioners' coatings.

U.S. imports.--During 1980-84, total U.S. imports of confectioners' coatings and other products provided for in TSUS item 156.47 increased from 676,000 pounds, valued at $637,000, to 11 million pounds, valued at $6 million (table 14). In January-June 1985, imports amounted to 3 million pounds, compared with 4 million pounds in the corresponding period of 1984. The major import sources since 1980 have been Canada, Sweden, and Switzerland.

Issues raised in the investigation.--In response to the question as to how imports of confectioners' coatings are practically certain to materially interfere with the price-support program, the USDA stated that the "sugar content in products could displace domestically available sugars." 1/ The Chocolate Manufacturers Association states that "The huge increases in imports . . . of confectioner's coatings since 1982, when the sugar quota was imposed, is directly due to the use of these products as substitutes for high-priced domestic sugar." 2/

Candy and other confectionery

Description and uses.--Candy and other confectionery provided for in TSUS item 157.10 (i.e., candy and other confectionery, n.s.p.f.) are discussed in this section. The term "confectionery" is defined in headnote 2, subpart C, part 10, schedule 1, of the TSUS as covering confections or sweetmeats ready for consumption. Thus, products used as ingredients in other prepared foods (e.g., cake decorations) are classified elsewhere. Also not included in this category is sweetened chocolate, which is specifically provided for in TSUS item 156.25 if in bars or blocks weighing 10 pounds or more each, or in TSUS item 156.30 if in any other form.

Generally, chocolate containing recognizable nuts, fruits, or centers is classified as confectionery under TSUS item 157.10. If nuts or other flavoring materials are added to sweetened chocolate, with the nuts or other

1/ Posthearing submission of the USDA, response to question 56.
2/ Posthearing brief of the Chocolate Manufacturers Association of the United States of America, June 28, 1985, pp. 4 and 5.

Table 13.--Confectioners' coatings: U.S. producers' shipments, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980-84

(Quantity in thousands of pounds; value in thousands of dollars; unit value per pound)

Year	Producers' shipments 1/	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	109,495	7,307	676	102,864	1
1981	147,680	5,348	827	143,159	1
1982	151,300	7,284	1,915	145,931	1
1983	154,100	7,501	4,112	150,711	3
1984	157,000	6,342	11,452	162,110	7
			Value		
1980	2/	5,039	637	-	-
1981	2/	3,420	869	-	-
1982	2/	4,059	1,342	-	-
1983	2/	4,343	2,423	-	-
1984	2/	4,122	6,109	-	-
			Unit value		
1980	2/	$0.69	$0.94	-	-
1981	2/	.64	1.05	-	-
1982	2/	.56	.70	-	-
1983	2/	.58	.59	-	-
1984	2/	.65	.53	-	-

1/ Data are estimates based on actual shipments reported in the 1972, 1977, and 1982 Census of Manufactures.
2/ Not available.

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

flavoring materials ground so fine that they are not observable in the chocolate, the product is generally classified as sweetened chocolate in TSUS item 156.30.

The provision for candy and other confectionery, n.s.p.f. (TSUS item 157.10), includes most other confectionery products, but does not include glace or candied products (TSUS items 154.05-.60), baked products (TSUS item 182.20), or chewing gum (TSUS item 182.32). Some of the major types of candy included under TSUS item 157.10 are hard candies, fondants and creams, fudge, caramels and toffees, marshmallows and nougats, sweetened chocolate containing nuts or fruits, and various specialty candies.

Table 14.--Confectioners' coatings: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Canada	261	406	1,348	3,338	10,573	3,861	1,612
Sweden	220	268	351	421	533	201	401
Switzld	99	147	155	229	228	96	264
Nethlds	82	0	1	99	85	58	185
France	0	0	2	1	12	2	21
Denmark	1	0	12	5	9	9	0
Fr Germ	12	3	3	3	4	3	19
Portugl	0	0	0	0	5	0	0
Belgium	0	0	1/	1/	3	0	0
Italy	0	0	0	0	1	1/	2
All other	0	3	42	14	0	0	270
Total	676	827	1,915	4,112	11,452	4,231	2,773
	Value (1,000 dollars)						
Canada	159	313	626	1,517	5,145	1,820	841
Sweden	260	341	439	504	630	253	513
Switzld	138	210	222	343	242	97	301
Nethlds	62	-	1	40	50	24	80
France	-	-	5	2	14	2	18
Denmark	2	-	14	5	11	11	-
Fr Germ	16	3	8	3	7	6	26
Portugl	-	-	-	-	5	-	-
Belgium	-	-	1/	2	3	-	-
Italy	-	-	-	-	2	1/	5
All other	-	2	26	8	-	-	123
Total	637	869	1,342	2,423	6,109	2,214	1,906
	Unit value (per pound)						
Canada	$0.61	$0.77	$0.46	$0.45	$0.49	$0.47	$0.52
Sweden	1.18	1.27	1.25	1.20	1.18	1.26	1.28
Switzld	1.39	1.43	1.43	1.50	1.06	1.01	1.14
Nethlds	0.76	-	0.92	0.40	0.59	0.41	0.43
France	-	-	2.04	1.22	1.17	1.36	0.84
Denmark	1.30	-	1.17	1.13	1.19	1.19	-
Fr Germ	1.36	1.14	2.42	1.01	1.95	2.00	1.41
Portugl	-	-	-	-	0.95	-	-
Belgium	-	-	1.18	5.34	1.26	-	-
Italy	-	-	-	-	1.37	1.99	2.31
All other	-	0.59	0.63	0.53	-	-	0.46
Average	0.94	1.05	0.70	0.59	0.53	0.52	0.69

1/ Less than 500.

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

U.S. tariff treatment.--The current rates of duty applicable to imported candy and other confectionery provided for in TSUS item 157.10 are 7 percent ad valorem under column 1 and 40 percent ad valorem under column 2. Imports from all beneficiary developing countries are eligible for duty-free treatment under the GSP, as are imports from eligible countries under the CBERA. The column 1 rate was not reduced in the Tokyo round of the Multilateral Trade Negotiations.

U.S. production and consumption.--During 1980-84, U.S. producers' shipments of candy and other confectionery, n.s.p.f., remained almost unchanged at 2.1 billion pounds annually during the period (table 15). U.S. consumption of candy and other confectionery increased from 2.2 billion pounds in 1980 to 2.3 billion pounds in 1984. During this period, U.S. exports of candy and confectionery declined irregularly from 45 million pounds in 1980 to 41 million pounds in 1984.

U.S. imports.--During 1980-84, total U.S. imports of candy and other confectionery not containing cocoa or chocolate increased steadily from 88 million pounds, valued at $80 million, to 151 million pounds, valued at $117 million (table 16). During January-June 1985, imports amounted to 94 million pounds, compared with 61 million pounds in the corresponding period of 1984. West Germany, the United Kingdom, and Brazil have been the major import sources since 1980, with the Netherlands joining them in 1983.

Imports of candy and other confectionery containing cocoa or chocolate decreased from 1980 to 1981 (from 28 million pounds to 26 million pounds) before increasing to 79 million pounds in 1984 (table 17). Imports during January-June 1985 amounted to 29 million pounds compared with 31 million pounds during January-June 1984. The United Kingdom, Canada, and West Germany have been the major import sources since 1980, with the addition of the Netherlands in 1984.

Issues raised in the investigation.--In response to the question as to how imports of confectionery are practically certain to materially interfere with the price-support program, the USDA stated that "The Department's concern is with those products that are being imported principally for their extractable sugar content or for their ability to directly substitute for sugar use." 1/ Several submissions indicated that confectionery imports are not capable of having the sugar extracted or being used as a direct substitute for sugar and that such imports tend to be high-priced gourmet or specialty products. 2/ One firm, Raymond Foods, Inc., recommended the imposition of an import fee on confectionery to equalize U.S. and foreign producer costs for sugar. 3/ The U.S. Beet Sugar Association 4/ stated that "The nature of the articles containing sugar which threaten the price support program should not be mistaken. . . . It would be a mistake to treat fully processed and retail package imports as not an integral part of the imports undermining the sugar price support program. Whether imported products are fully processed so that

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1/ Posthearing submission of the USDA, response to question 33.
2/ E.g., transcript of hearing, pp. 132-34, 152-53, 156, and 185-87.
3/ Posthearing statement of Raymond Foods, p. 4.
4/ Posthearing brief of the United States Beet Sugar Association, pp. 2-4.

Table 15.--Candy and other confectionery, not specially provided for: U.S. producers' shipments, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980-84

(Quantity in thousands of pounds; value in thousands of dollars; unit value per pound)

Year	Producers' shipments 1/	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1980	2,115,310	45,327	115,583	2,185,566	5
1981	2,112,520	48,475	115,141	2,179,186	5
1982	2,109,720	43,743	126,448	2,192,425	6
1983	2,109,060	41,815	159,013	2,226,258	7
1984	2,108,400	40,527	229,248	2,297,121	10
	Value				
1980	1,544,198	52,188	120,404	-	-
1981	1,653,560	61,061	123,759	-	-
1982	1,796,521	58,933	132,785	-	-
1983	2/	56,408	164,968	-	-
1984	2/	56,738	222,341	-	-
	Unit value				
1980	$0.73	$1.15	$1.04	-	-
1981	.78	1.26	1.07	-	-
1982	.85	1.35	1.05	-	-
1983	2/	1.35	1.04	-	-
1984	2/	1.40	.97	-	-

1/ Data are estimates based on actual shipments reported in the 1972, 1977, and 1982 Census of Manufactures.
2/ Not available.

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

Table 16.--Candy and other confectionery, not containing cocoa or chocolate: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Fr Germ	14,511	15,554	15,926	20,289	32,518	12,114	24,240
U King	14,705	12,436	8,502	11,406	15,350	5,110	8,985
Spain	1,173	3,726	6,989	6,107	8,865	2,856	4,128
Nethlds	5,031	6,089	6,856	8,863	10,665	4,169	6,337
Brazil	13,105	11,944	10,470	15,903	21,252	9,206	18,205
Canada	5,837	4,825	5,449	5,873	8,319	3,492	4,678
Italy	3,897	4,600	4,049	5,185	5,907	2,911	2,940
Argent	2,394	1,270	4,465	6,572	10,059	4,657	4,104
Sweden	5,537	4,350	4,317	5,182	4,699	2,243	2,423
Japan	468	720	655	975	1,456	584	938
All other	21,196	23,785	23,315	25,335	31,601	13,778	17,246
Total	87,854	89,299	90,991	111,689	150,690	61,120	94,226
	Value (1,000 dollars)						
Fr Germ	26,306	20,768	19,982	23,289	30,780	12,718	19,702
U King	14,236	12,452	8,103	10,396	12,583	4,425	7,435
Spain	3,086	7,179	10,630	9,548	10,891	2,931	3,867
Nethlds	4,645	5,428	5,903	7,345	8,739	3,574	4,913
Brazil	5,222	5,905	4,715	7,117	8,467	3,659	6,333
Canada	3,937	3,759	4,255	4,432	6,164	2,677	3,720
Italy	3,640	4,517	3,891	4,728	5,252	2,566	2,549
Argent	1,341	829	2,624	3,180	4,614	2,242	2,050
Sweden	3,883	3,692	3,237	3,876	3,524	1,660	1,892
Japan	851	1,640	1,399	1,969	3,219	1,228	2,154
All other	12,930	17,592	17,177	19,255	22,369	10,000	12,475
Total	80,078	83,762	81,914	95,135	116,604	47,678	67,091
	Unit value (per pound)						
Fr Germ	$1.81	$1.34	$1.25	$1.15	$0.95	$1.05	$0.81
U King	0.97	1.00	0.95	0.91	0.82	0.87	0.83
Spain	2.63	1.93	1.52	1.56	1.23	1.03	0.94
Nethlds	0.92	0.89	0.86	0.83	0.82	0.86	0.78
Brazil	0.40	0.49	0.45	0.45	0.40	0.40	0.35
Canada	0.67	0.78	0.78	0.75	0.74	0.77	0.80
Italy	0.93	0.98	0.96	0.91	0.89	0.88	0.87
Argent	0.56	0.65	0.59	0.48	0.46	0.48	0.50
Sweden	0.70	0.85	0.75	0.75	0.75	0.74	0.78
Japan	1.82	2.28	2.14	2.02	2.21	2.10	2.30
All other	0.61	0.74	0.74	0.76	0.71	0.73	0.72
Average	0.91	0.94	0.90	0.85	0.77	0.78	0.71

1/ Less than 500.

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

Table 17.--Candy and other confectionery, containing cocoa or chocolate: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
U King------	7,316	4,404	10,176	14,053	22,697	8,591	9,838
Nethlds-----	903	966	890	3,372	18,748	8,102	1,770
Italy-------	1,292	1,347	1,994	2,705	4,714	1,434	1,755
Switzld-----	1,632	2,664	2,433	3,329	5,462	1,427	1,466
Canada------	8,043	5,776	7,220	7,891	7,634	2,825	2,388
Fr Germ-----	2,616	2,719	3,162	4,185	5,753	1,537	3,287
Belgium-----	205	483	428	942	1,442	703	831
Finland-----	667	1,240	1,092	1,490	2,640	1,204	1,199
France------	186	123	308	592	1,250	595	810
Israel------	371	535	798	965	1,686	944	905
All other---	4,499	5,586	6,955	7,800	6,533	3,158	4,689
Total---	27,729	25,843	35,457	47,324	78,558	30,522	28,936
	Value (1,000 dollars)						
U King------	9,743	6,532	14,685	20,614	28,576	11,386	10,620
Nethlds-----	1,303	1,317	1,294	3,795	17,861	8,091	1,855
Italy-------	3,463	3,376	4,726	7,566	13,548	3,794	4,066
Switzld-----	4,103	5,840	5,581	8,033	10,876	3,514	2,821
Canada------	10,520	8,143	8,997	10,514	10,836	3,545	3,364
Fr Germ-----	4,760	4,138	4,550	5,372	7,322	2,089	3,109
Belgium-----	741	1,252	982	2,358	3,449	1,768	1,690
Finland-----	677	1,462	1,440	1,476	2,525	1,178	1,189
France------	580	428	725	1,287	2,177	1,046	1,384
Israel------	462	727	1,098	927	1,925	1,073	1,190
All other---	3,975	6,782	6,794	7,890	6,643	3,367	4,224
Total---	40,326	39,997	50,870	69,833	105,737	40,852	35,513
	Unit value (per pound)						
U King------	$1.33	$1.48	$1.44	$1.47	$1.26	$1.33	$1.08
Nethlds-----	1.44	1.36	1.45	1.13	0.95	1.00	1.05
Italy-------	2.68	2.51	2.37	2.80	2.87	2.65	2.32
Switzld-----	2.51	2.19	2.29	2.41	1.99	2.46	1.93
Canada------	1.31	1.41	1.25	1.33	1.42	1.25	1.41
Fr Germ-----	1.82	1.52	1.44	1.28	1.27	1.36	0.95
Belgium-----	3.62	2.59	2.29	2.50	2.39	2.51	2.03
Finland-----	1.01	1.18	1.32	0.99	0.96	0.98	0.99
France------	3.11	3.49	2.36	2.17	1.74	1.76	1.71
Israel------	1.24	1.36	1.38	0.96	1.14	1.14	1.32
All other---	0.88	1.21	0.98	1.01	1.02	1.07	0.90
Average--	1.45	1.55	1.43	1.48	1.35	1.34	1.23

1/ Less than 500.

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

sugar may not be easily separated from such products is not a meaningful issue. Such imports are occurring because of the low world price of sugar in an effort to avoid the existing sugar quotas, and such imports affect the price of sugar directly and by displacement of U.S. produced sugar, and materially interfere with the U.S. price support program. Further, a blanket exemption from sugar quotas for products imported in retail packages is unjustified and unwarranted, and would undermine the quotas in place. These products interfere with the price support program equally as products which are imported in bulk form."

Edible preparations of gelatin

Description and uses.--TSUS item 182.90 is the specific provision for edible preparations of gelatin. (In the TSUS, the word "of" is defined to mean "wholly or in chief value of" (General headnote 9(f)(i)).) These preparations are usually dessert powders that are dissolved in water before being chilled and served. Although most gelatin dessert powders contain a fruit flavoring, some unflavored gelatin preparations are also used for food.

U.S. tariff treatment.--The current rates of duty applicable to imported edible preparations of gelatin provided for in TSUS item 182.90 are 6 percent ad valorem under column 1 and 25 percent ad valorem under column 2. Imports from all beneficiary developing countries are eligible for duty-free treatment under the GSP, as are imports from eligible countries under the CBERA. The column 1 rate was not reduced in the Tokyo round of the Multilateral Trade Negotiations.

U.S. production and consumption.--U.S. consumption of gelatin desserts is approximately equal to U.S. production. In 1977, the last year official statistics are available, U.S. producers' shipments of gelatin totaled 216 million pounds. It is believed that production has risen since then. The number of producers is small, with two major firms predominating. These firms produce a variety of gelatin desserts, as well as many other food products.

U.S. imports.--Total U.S. imports of edible preparations of gelatin are reported by the U.S. Department of Commerce in terms of value only. These imports increased irregularly over the 1980-84 period, from $1 million to $6 million (table 18). Canada accounted for a large part of the imports in 1983 and 1984. Other major import sources are Panama and Switzerland. The value of imports in January-June 1985 was $6 million compared with $4 million in the corresponding period in 1984.

Issues raised in the investigation.--In response to the question as to how imports of edible preparations of gelatin are practically certain to materially interfere with the price-support program, the USDA stated that "Sugar could directly substitute for domestically available sugar through segregation from such items as gelatin/sugar/flavoring blends." 1/ Amstar Corp. stated "The importation of high sugar content products such as . . . gelatin products provides a potential to materially reduce the growth of sugar sold in the United States for use in manufacturing these products. These are

1/ Posthearing submission of the USDA, response to question 56.

Table 18 --Edible preparations of gelatin (dessert mixes): U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 pounds)						
Canada	0	0	0	0	0	0	0
Panama	0	0	0	0	0	0	0
Switzld	0	0	0	0	0	0	0
Brazil	0	0	0	0	0	0	0
Italy	0	0	0	0	0	0	0
Japan	0	0	0	0	0	0	0
Fr Germ	0	0	0	0	0	0	0
Argent	0	0	0	0	0	0	0
Austral	0	0	0	0	0	0	0
Israel	0	0	0	0	0	0	0
All other	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0
	Value (1,000 dollars)						
Canada	-	2	1	2,668	4,711	3,422	5,563
Panama	645	757	853	743	506	376	471
Switzld	169	152	147	190	286	154	143
Brazil	-	-	37	-	80	36	-
Italy	2	-	-	-	73	69	26
Japan	2	1	9	1	53	23	18
Fr Germ	16	-	15	14	35	4	14
Argent	-	-	-	-	34	34	-
Austral	-	-	-	-	25	-	-
Israel	8	-	17	17	14	14	8
All other	66	374	132	36	40	16	54
Total	908	1,287	1,210	3,667	5,858	4,149	6,297
	Unit value (per pound)						
Canada	-	-	-	-	-	-	-
Panama	-	-	-	-	-	-	-
Switzld	-	-	-	-	-	-	-
Brazil	-	-	-	-	-	-	-
Italy	-	-	-	-	-	-	-
Japan	-	-	-	-	-	-	-
Fr Germ	-	-	-	-	-	-	-
Argent	-	-	-	-	-	-	-
Austral	-	-	-	-	-	-	-
Israel	-	-	-	-	-	-	-
All other	-	-	-	-	-	-	-
Average	-	-	-	-	-	-	-

1/ Less than 500.

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

not products that are novel or unique products. . . . The reason why they are now being imported is the price differential between domestic sugar and foreign sugar." 1/ The U.S. Beet Sugar Association stated that gelatin mixes "are clearly being imported because of the sugar content of the products compared to other ingredients and the low world price of sugar. . . . Some U.S. processors have ceased purchasing sugar from Beet Sugar Association members because they are now buying such fully processed products off-shore, thus directly displacing U.S. produced sugar." 2/

Edible preparations containing over 5.5 percent by weight of butterfat and not packaged for retail sale

The principal products covered by TSUS item 182.92 are butterfat-sugar mixtures used to replace part of the cream in the manufacture of ice cream. They are solids at room temperatures but become thick oily liquids at higher temperatures. Butterfat-sugar mixtures, which usually contain about 44 percent butterfat and 56 percent sugar, are not believed to be produced in the United States for commercial sale. As articles of commerce, they are supplied entirely by imports.

Imports of all products classifiable in TSUS item 182.92 are subject to restrictions imposed under section 22 of the Agricultural Adjustment Act. The restrictions are provided for in items 950.22 and 950.23 of part 3 of the appendix to the TSUS and are shown in appendix E to this report. The import restrictions are designed to protect the Department of Agriculture's price-support program for milk. The USDA stated that their concern is with those articles in TSUS item 182.92 "which are not suitable for use as ingredients in the commercial production of edible articles" 3/ and thus not within the scope of the section 22 import restrictions on dairy products. No such articles are known to exist. Therefore, this tariff item is not discussed further since the President stated in his letter that the Commission is to consider articles only to the extent that they are not covered by other import restrictions provided for in part 3 of the appendix to the TSUS.

Mixed feed products

Description and uses.--The mixed feed products included herein are those feeds provided for in TSUSA item 184.7070 that are admixtures of grains (or products or by-products of milling grains) with molasses, oil cake, oil-cake meal, or other feedstuffs, which consist of not less than 6 percent by weight of the grains or grain products and which contain sugar. There has been no known domestic production of such an animal feed. Sugar could be used as a source of carbohydrates and substitute for part of the grain in mixed animal feeds. Sugar contains no protein and any feeds containing significant amounts of sugar would have to be reformulated to include additional protein supplements to make a balanced feed. The USDA was concerned that sugar mixed with whole grains (e.g., corn) could be classified in this tariff item and

1/ Posthearing brief of Amstar Corp., pp. 2-3.
2/ Posthearing brief of the U.S. Beet Sugar Association, pp. 3-4.
3/ Posthearing submission of the USDA, response to question 31.

that the sugar from such a mixture would be separated and used for human consumption. Such a mixture would not be allowed to be imported pursuant to Custom's administrative determination issued November 7, 1984; these articles would be considered to be commingled merchandise (see app. F).

U.S. tariff treatment.--The current rate of duty applicable to these imported mixed animal feeds under column 2 is 10 percent ad valorem; imports are free of duty under column 1.

U.S. production and consumption.--There are no relevant data available on U.S. production since there are no known animal feeds containing sugar being produced. U.S. consumption of such products is equivalent to U.S. imports.

U.S. imports.--During 1980-84, total U.S. imports of all mixed animal feeds provided for in TSUSA item 184.7070 increased from 82,000 short tons to 293,000 short tons (table 19). In January-June 1985, imports amounted to 158,000 short tons compared with 144,000 short tons in the corresponding period of 1984. Canada has been the predominant import source. U.S. imports of animal feeds containing sugar are small and are estimated to have totaled 700 short tons in 1984. Imports have consisted of a mixture of corn meal and raw sugar for use as an animal feed.

Issues raised in the investigation.--In response to the question as to how imports of animal feeds are practically certain to materially interfere with the price-support program, the USDA stated "there is a potential for imported animal feeds to interfere with the price-support program. If, however, animal feeds are being imported for something other than their sugar content and substitute for something other than domestically available sugar, then imports of this product would not materially interfere with the domestic sugar price support program." 1/ Amstar Corp. indicated that they knew of no imports of animal feeds that were interfering with the price-support program. 2/

Imports from foreign trade zones

After the sugar quota was imposed in 1982, several operations were established in foreign trade zones in the United States. 3/ These facilities were mixing imported sugar and dextrose within the zones, and then shipping the blended product out of the zones. There is evidence that in some cases the sugar and dextrose were then separated from each other after being shipped out of the zones, in an effort to circumvent the sugar quota. However, in November 1984, U.S. Customs officials issued a directive classifying sugar blends as commingled merchandise, unless the blends "possess a valid commercial identity and are actually used in commerce in the United States, whether as consumer products or for further manufacturing in the same form in which entered" (see app. F).

The USDA has opposed the granting of foreign trade zones in which the production of sugar-containing products is one of the permitted activities.

1/ Posthearing submission of the USDA, response to question 32.

2/ Posthearing brief of Amstar Corp., p. 3.

3/ A detailed description of these operations is provided in the report relating to investigation No. 22-46.

Table 19.--Mixed animal feeds, nspf: U.S. imports for consumption, by principal sources, 1980-84, January-June 1984, and January-June 1985

Source	1980	1981	1982	1983	1984	January-June-- 1984	January-June-- 1985
	Quantity (1,000 short tons)						
Canada	82	113	140	221	280	138	130
Dom Rep	0	1/	2	8	9	5	5
Brazil	0	0	1/	0	3	0	23
France	1/	1/	0	1/	1	1/	1/
Ireland	0	0	0	0	1/	1/	1/
U King	1/	1/	1/	1/	1/	1/	1/
Fr Germ	1/	0	1/	1/	1/	1/	1/
Iceland	0	0	0	0	1/	0	0
Japan	1/	1/	1/	1/	1/	1/	1/
Mexico	0	0	1/	1/	1/	1/	0
All other	1/	2	1/	3	1/	1/	1/
Total	82	116	143	232	293	144	158
	Value (1,000 dollars)						
Canada	11,729	17,818	21,195	34,337	41,572	21,761	16,164
Dom Rep	-	5	340	1,108	1,133	678	648
Brazil	-	-	1	1/	365	-	2,634
France	1	10	-	145	305	149	253
Ireland	-	-	-	-	104	4	19
U King	70	32	85	70	82	28	42
Fr Germ	1	-	1	15	59	31	4
Iceland	-	-	-	-	53	-	-
Japan	69	81	78	117	47	11	26
Mexico	-	-	5	1	28	24	-
All other	77	201	89	190	51	30	30
Total	11,947	18,147	21,793	35,982	43,800	22,717	19,821
	Unit value (per 1,000 short tons)						
Canada	$143.10	$157.68	$151.01	$155.21	$148.66	$157.35	$124.79
Dom Rep	-	188.04	157.79	146.46	129.35	125.73	123.69
Brazil	-	-	149.17	-	110.35	-	115.43
France	622.00	518.75	-	2,259.05	601.54	566.12	634.31
Ireland	-	-	-	-	1,899.76	1,440.67	1,204.63
U King	2,109.64	1,089.72	955.46	1,105.30	1,016.99	1,209.87	895.13
Fr Germ	1,135.00	-	882.00	923.63	804.14	811.76	126.00
Iceland	-	-	-	-	2,660.55	-	-
Japan	334.08	545.32	556.51	1,619.21	1,199.59	1,351.38	528.44
Mexico	-	-	118.95	1,020.00	268.24	283.00	-
All other	394.64	81.74	242.88	60.38	683.67	594.24	281.24
Average	144.99	156.86	152.24	154.99	149.66	157.58	125.26

1/ Less than 500.

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

The USDA, in a letter dated May 21, 1983, to the Executive Secretary of the Foreign Trade Zones Board, stated that the USDA opposes new applications for foreign trade zone status as not in the public interest since approval would undermine the domestic sugar price-support program. 1/ The USDA also opposes the granting of subzones in which domestically produced sugar would be replaced by foreign-produced sugar in a sugar-containing product.

Sugar prices

World sugar prices.--Sugar prices in the world market tend to be volatile and can be characterized by long periods of low prices followed by short periods of very high prices. These price fluctuations are caused primarily by fluctuations in the world supply of sugar in the face of slow, steady growth in world demand. 2/ Over the last few years, high levels of world production together with a decline in the growth of world demand have resulted in a continuous decline in world prices, from 24.80 cents per pound, raw sugar, in crop year 1980/81 to 6.74 cents per pound in 1983/84. The current world price of raw sugar is very low, averaging around 3.25 cents per pound during the first half of 1985 (tables 20 and 21).

U.S. sugar prices.--The U.S. price of sugar has been supported since 1982, as mandated by section 201(h) of the Agriculture Act of 1949, as amended by the Agriculture and Food Act of 1981. The current MSP for raw sugar is set at 21.57 cents per pound and is supported primarily by import quotas. However, the market price has remained below the MSP since November 1984. In May 1985, the last month when spot prices were quoted, the average U.S. spot price for raw sugar was 21.09 cents per pound (table 20). 3/

Several factors have caused the U.S. market price to fall below the MSP. U.S. production of raw sugar rose in September 1984 as a result of good harvests, resulting in an overall projected increase in sugar production for the crop year 1984/85 of 1.1 percent. Domestic consumption, meanwhile, has declined as food processors have substituted HFCS and other sugar substitutes for sugar. These factors are discussed in more detail in the report for investigation No. 22-49, being prepared concurrently with this report.

In addition, imports of certain articles containing sugar have increased significantly. The effect of such imports on the domestic price of sugar is analyzed below.

1/ The USDA posthearing submission at pages 37 and 45.

2/ For a more detailed description of the world sugar market, see U.S. International Trade Commission, Certain Articles Containing Sugar, Report to the President on Investigation No. 22-46, December 1983, and Report No. 22-49, being prepared concurrently with this report.

3/ September futures prices for June and July were 21.12 and 21.27 cents per pound, respectively. Futures prices tend to be higher than spot prices. Therefore, prices in June and July should not be compared with prices in the preceding months.

Table 20.--World and U.S. raw sugar prices, by months, January 1979 to July 1985

(In cents per pound)

Period	World price	U.S. price
1979:		
Jan	7.57	14.58
Feb	8.23	15.22
Mar	7.46	15.60
Apr	7.82	14.42
May	7.85	14.58
June	8.14	14.87
July	8.52	15.82
Aug	8.84	15.85
Sept	9.80	15.72
Oct	11.93	15.93
Nov	13.69	16.29
Dec	14.86	18.30
Avg	9.59	15.58
1980:		
Jan	17.23	19.66
Feb	23.03	24.69
Mar	20.12	21.28
Apr	21.61	22.67
May	31.33	31.89
June	31.61	32.10
July	28.12	28.75
Aug	31.97	33.14
Sept	35.12	36.03
Oct	41.09	41.70
Nov	37.95	39.28
Dec	28.98	30.29
Avg	29.00	30.09
1981:		
Jan	28.01	29.57
Feb	24.27	26.07
Mar	21.77	23.81
Apr	17.90	19.91
May	15.08	17.43
June	16.35	18.95
July	16.32	19.10
Aug	14.76	17.42
Sept	11.66	15.49
Oct	12.13	15.66
Nov	11.96	16.28
Dec	12.96	17.07
Avg	16.85	19.66

Period	World price	U.S. price
1982:		
Jan	12.99	18.16
Feb	13.05	17.77
Mar	11.24	17.13
Apr	9.53	17.89
May	8.12	19.57
June	6.85	21.03
July	7.83	22.15
Aug	6.80	22.45
Sept	5.90	20.88
Oct	5.91	20.44
Nov	6.50	20.79
Dec	6.27	20.83
Avg	8.42	19.92
1983:		
Jan	5.98	21.23
Feb	6.40	21.76
Mar	6.18	21.86
Apr	6.71	22.43
May	9.27	22.59
June	10.80	22.54
July	10.53	22.09
Aug	10.52	22.55
Sept	7.46	22.20
Oct	9.67	21.94
Nov	8.52	21.83
Dec	7.82	21.47
Avg	8.49	22.04
1984:		
Jan	6.95	21.51
Feb	6.58	21.90
Mar	6.42	22.00
Apr	5.96	22.03
May	5.58	22.01
June	5.48	22.06
July	4.51	21.89
Aug	4.01	21.72
Sept	4.11	21.70
Oct	4.66	21.56
Nov	4.41	21.40
Dec	3.51	21.10
Avg	5.18	21.78

Period	World price	U.S. price
1985:		
Jan	3.59	20.72
Feb	3.65	20.38
Mar	3.78	20.91
Apr	3.37	20.97
May	2.77	21.09
June 1/	2.74	21.12
July 1/	2.74	21.27

1/ June and July U.S. prices are September futures prices. As of May 31, 1985, spot prices are no longer quoted.

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

Table 21.--World sugar production, consumption, stocks, and prices, crop years 1975/76 to 1984/85

Crop year 1/	Production	Consumption	Stocks	Price 2/
	Million metric tons		Percent	Cents per pound
1975/76	81.68	79.15	26.5	13.63
1976/77	86.30	81.91	30.2	8.28
1977/78	92.54	86.17	34.6	7.51
1978/79	91.19	89.65	34.2	8.21
1979/80	84.24	89.52	26.4	21.28
1980/81	88.78	89.69	25.3	24.80
1981/82	100.72	90.65	36.2	10.43
1982/83	101.15	93.81	42.8	7.58
1983/84	94.74	95.70	40.9	6.74
1984/85	97.55	96.14	43.4	3/ 3.58

1/ Crop years run from September of a given year through August of the following year.

2/ The crop-year prices are simple averages of monthly prices from September of a given year through August of the following year based on spot prices, f.o.b. Caribbean, contract No. 11, New York Coffee, Sugar, and Cocoa Exchange, except from Nov. 3, 1977, to Aug. 17, 1979, when data were developed from the London Daily Price Series.

3/ An 11-month average.

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

Economic analysis of the effect of imports of articles containing sugar on the U.S. sugar price-support program

Imports of certain articles containing sugar are believed by the USDA to be interfering with the U.S. price-support program in one of two ways. First, the USDA believes that such articles are entering the United States in the form of "slightly processed" dry mixtures from which sugar can be easily extracted. Second, the USDA is concerned with articles for which the sugar content is specifically substituted for domestically available sugar. An example of the second type of article might be sweetened cocoa. Confectioners, bakers, and ice cream makers use both cocoa and sugar in the production of their end products. In the absence of the large difference between the world and U.S. domestic prices of sugar, these users would purchase sugar and cocoa as separate inputs. Because of the sugar price differential, however, these users may be purchasing imported sweetened cocoa as an input, thus reducing the amount of domestic sugar required to produce their end products. 1/

1/ Prehearing brief of the Chocolate Manufacturers' Association of the United States of America, June 28, 1985, p. 9.

Imports of sugar-containing articles from which the sugar is easily extracted or articles that directly displace domestic sugar use may be depressing the U.S. domestic price of sugar if the quantity of these imports is increasing substantially. Estimates of the effects of increases in such imports on the sugar price-support program are presented in this section.

Estimates of the increase in imports of sugar-containing articles.--Articles containing sugar that are the subject of this investigation include a broad range of products from candy to pancake flour mixes with sugar content ranging from less than 10 percent to over 90 percent by dry weight. These products also vary substantially by the degree of processing. The USDA has argued that the lower the degree of processing and the greater the amount of sugar, the more likely it is that imports of such products are interfering with the price-support program. Clearly, any increase in imports of sugar-containing articles that displaces domestic inputs of sugar or domestic production of similar products will reduce the domestic demand for sugar. However, there is no clear means of distinguishing imports that are specifically intended to circumvent the sugar quota as described above from those that affect the domestic market for sugar less directly. Therefore, the effect on the U.S. sugar market of imports of all items of concern to the USDA are included in this analysis. 1/

Data on imports for the TSUS items included in this investigation are shown in table 22. These data show substantial increases in imports since 1981, the year prior to the imposition of the sugar quota, for certain categories, most notably, sweetened cocoa (TSUS item 156.45), confectioners' coatings (TSUS item 156.47), and edible preparations, n.s.p.f. (TSUS item 183.05). Several factors may have caused such increases, including the appreciation of the dollar and the recent expansion in the U.S. economy, as well as efforts to circumvent the quota. Therefore, it was necessary to determine the effects of these other factors, if any, on the growth of these imports.

To determine the extent to which other factors have caused imports to increase, a simple market share analysis was used when data were available. That is, the ratios of imports to consumption were estimated for the items in the investigation for 1981 through 1984 and compared to the same ratios for all food and kindred products during the same period. If the expansion of the U.S. economy was the primary cause of increased imports, then the ratio of imports to consumption would not be expected to change significantly from 1981 to 1984. Increased imports resulting from the appreciation of the dollar or efforts to circumvent the quota, however, would cause the ratio to increase

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1/ Imports of TSUS item 184.7070 that contain sugar are not known to exist prior to 1984. In 1984, 1.4 million tons of raw sugar and cornmeal entered under this item, containing 87 percent sugar. This product was used as an ingredient in animal feed and is not believed to be displacing any domestic sugar inputs. For more details, see the previous section on this item.

Table 22.--Imports of certain articles containing sugar, 1980-84

Item	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Edible molasses	40,000	24,000	30,000	28,000	42,000
Sweetened cocoa	432	1,681	4,293	7,421	22,023
Confectioners' coatings	676	827	1,915	4,112	11,452
Candy and other confectionery	115,583	115,141	126,448	159,013	229,248
Gelatin	NA	NA	NA	NA	NA
Edible preparations containing over 5.5 percent butterfat	2,591	1,208	2,335	2,334	3,063
Pancake flour and other flour mixes	13,849	12,104	8,662	14,129	19,448
Edible preparations, nspf 1/	49,791	84,392	90,873	180,193	391,317
	Value (1,000 dollars)				
Edible molasses	8,012	5,519	4,202	3,762	4,969
Sweetened cocoa	170	1,315	2,918	3,371	9,380
Confectioners' coatings	637	869	1,342	2,423	6,109
Candy and other confectionery	120,404	123,759	132,785	164,968	222,341
Gelatin	908	1,287	1,210	3,667	5,858
Edible preparations containing over 5.5 percent butterfat	1,520	970	1,165	1,496	2,008
Pancake flour and other flour mixes	3,529	3,281	2,908	5,601	8,250
Edible preparations, nspf 1/	35,723	66,401	70,918	111,237	179,780

1/ TSUS item 183.05 was established March 30, 1980. From Jan. 1, 1980 until Mar. 30, 1980, the major portion of imports was entered under TSUS item 182.9988. The total of the 2 items was 68,195,000 pounds, valued at $46,729,000.

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

significantly. Assuming that the import penetration ratio for all food and kindred products reflects primarily the effects of exchange rate changes, a comparison of the changes in this ratio to the changes in the ratio for items in this investigation gives some indication of the extent to which increases in imports are a result of efforts to circumvent the quota.

Data on consumption were available only for four of the items in this investigation: edible molasses, sweetened cocoa, confectioners' coatings, and candy and other confectionery. These data are shown in table 23. With the exception of molasses, the import penetration ratio has increased substantially for these articles, from as low as 1 percent in 1981 to as high as 12 percent in 1984, for sweetened cocoa. The import penetration ratio for all food and kindred products remained virtually unchanged during the period, fluctuating around 4.6 percent. These data would indicate that exchange rate changes had very little effect on imports. Hence, a substantial portion of the increase in imports may be caused by efforts to circumvent the sugar quota.

Table 23.--Import penetration ratios for certain articles containing sugar and all processed food and kindred products, 1980-84

(In percent)

Item	1980	1981	1982	1983	1984
Food and kindred products	4.8	4.9	4.4	4.5	4.5
Edible molasses	47.6	37.5	50.0	45.2	1/
Sweetened cocoa	2/	.9	2.3	4.1	11.7
Confectioners' coatings	.7	.6	1.3	2.7	7.1
Candy and other confectionery	5.3	5.3	5.8	7.1	10.0

1/ Not available.
2/ Less than 0.05 percent.

Source: Compiled from official statistics of the U.S. Department of Commerce and the U.S. Bureau of Labor Statistics.

Because of limitations in the consumption data, the market share analysis could not be used to estimate the increase in imports that may be attributable to the price differential for sugar. Rather, growth of imports prior to the imposition of the quota were used to project the quantities that would have been imported in the absence of the large price differential for sugar. 1/ The differences between the actual quantity of imports and these estimates provide estimates of the quantity of imports entering the United States as a result of differences in sugar prices.

These estimates are provided in table 24. Note that the category with the largest estimated increase in imports is edible preparations, n.s.p.f. Imports in this category nearly doubled between 1982 and 1983, from 91 to 180 million pounds and more than doubled from 1983 to 1984, to 391 million pounds in 1984. Imports in this category for the 5 years previous to 1982 were growing at a stable, slow rate of less than 10 percent per year. Aside from the difference between the world and U.S. price of sugar, there does not appear to be any other readily apparent reason for the sudden and significant increase in the rate of growth for this category during 1983 and 1984.

Imports of candy and other confectionery have also increased substantially. This category consists of highly processed goods, many of which are specialty products, usually packaged for retail sale. Imports in this category for the 5 years preceding the sugar quota were fairly constant,

1/ Import data for these categories prior to 1980 are provided in app. G.

Table 24.--Estimated effect of differences in the world and U.S. domestic price of sugar on imports of sugar-containing articles and sugar, 1984

Item	Estimated increase in imports 1/	Sugar content	Estimated sugar content
	1,000 pounds	Percent	1,000 pounds
Edible molasses	0	2/	2/
Sweetened cocoa	17,616	64	11,274
Confectioners' coatings	10,196	50	5,098
Candy and other confectionery	114,107	56	64,356
Gelatin	5,847	80	4,678
Edible preparations containing over 5.5 percent butterfat	0	2/	2/
Pancake flour and other flour mixes	7,344	30	2,203
Edible preparations, n.s.p.f	299,493	32	94,340
Total	454,603		181,949

1/ Increased imports were estimated by assuming that imports would have increased at the same rate of growth during 1982-84 as during the 5 years prior to the sugar quota, in the absence of the price differential for sugar. Actual levels of imports in 1984 were subtracted from projected levels.

2/ Not applicable.

Source: Estimated by the staff of the U.S. International Trade Commission based on responses to questionnaires of the Commission.

then began to increase in 1983 and 1984. Since 1983 and 1984 were years of economic expansion, these increases in imports may be, in part, a result of an increase in demand for specialty products. The inclusion of this item in the analysis gives an upper bound estimate of its effect on the price of sugar.

For two other items, edible molasses and edible preparations containing over 5.5 percent by weight of butterfat, no increases in imports are shown. While imports of edible molasses fluctuated from 42 million pounds to 21 million pounds during the last decade, there does not appear to be any significant upward trend. 1/ Imports of edible preparations containing over 5.5 percent by weight of butterfat fluctuated around 2.5 million pounds, with the level of imports nearly as high in 1978 as in 1984.

1/ Furthermore, prehearing briefs, testimony at the hearing, and telephone conversations with food processors all indicate that it is generally not economically feasible to extract sugar from molasses. Nor can molasses be used directly as a sweetener in food processing if its distinctive taste and color is not desired in the end product. See statement of Ingredient Technology Corp. regarding TSUS item No. 155.35 and prehearing brief on behalf of the International Sugar Policy Coordinating Commission of the Dominican Republic.

Given estimates of the increase in imports of these articles, the quantity of sugar contained in these products was then estimated. This was done by estimating the percent of sugar by dry weight for each TSUS item based on the questionnaire data. That is, importers were requested to report the quantity of imports of various categories within a TSUS item. These categories were classified by sugar content. The sugar content for the entire TSUS item was estimated as the weighted average of the sugar content for individual categories within the item. 1/

The sugar content of edible preparations, n.s.p.f., was particularly difficult to estimate. This category includes items such as iced tea mixes with 95 percent sugar and frozen pizza pies, crackers, and so forth, with less than 10 percent sugar. 2/ Slightly less than 50 percent of the imports in this category contain 1 to 10 percent sugar. Such imports are not likely to be interfering with the price-support program. However, increases in imports in this category that are the result of efforts to circumvent the quota would likely contain much higher percentages of sugar. Thus, while the sugar content was calculated for the entire category, the average sugar content of the increase in imports is likely to be greater than the average sugar content of the entire category and the estimated indirect imports of sugar may be understated.

Effect of increased imports of sugar-containing articles on the U.S. domestic price of sugar.--Given the estimated increase in imports, the effect on the U.S. domestic price of sugar depends on the responsiveness of U.S. consumers and suppliers to the increased imports of sugar, or on demand and supply elasticities. Empirical studies of the demand for sugar in the United States indicate that consumer demand for sugar is highly inelastic; i.e., that for very large changes in price, the quantity of sugar demanded changes very little. Reliable estimates of the elasticity of supply are not available. However, it is likely that during a period of a year, domestic suppliers are unable to respond much to price changes. The length of time required from planting to harvesting is 2-1/2 years for sugarcane and 8 months for sugar beets. Only one crop of sugar beets is planted in a given year and the equipment required to harvest the beets is highly specialized. Therefore, the supply of raw sugar was also assumed to be highly price inelastic.

The methodology used to estimate the effect of increased imports on the U.S. domestic market for sugar is contained in app. G. It is assumed that the increased imports of sugar containing articles compete with sugar and not with high-fructose corn syrup. High and low estimates of the demand and supply in the inelastic range were used for the estimated effect on price. The use of higher elasticities provides a lower bound of the effect on price of increased imports of sugar. The lower estimates of the elasticities are based on a considered selection of a demand elasticity from empirical studies and a supply elasticity that is perfectly inelastic in the short run.

Table 25 provides estimates of the effect on price of indirect imports of sugar through each of the TSUS items and for the total of all of the items. Imports of sugar indirectly entering the United States through each of the

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1/ The equation used to estimate the weighted-average percent of sugar is contained in app G.

2/ A description of the articles within the TSUS items and the sugar content is contained in app. G.

Table 25.--Estimated effect of indirect imports of sugar on the U.S. domestic price of raw sugar

Item	High		Low	
	(Percent)	(Cents/Pound)	(Percent)	(Cents/Pound)
Sweetened cocoa	0.4	0.09	0.1	0.02
Confectioners' coatings	.2	.04	2/	--
Candy and other confectionery	2.6	.54	.6	.12
Gelatin	.2	.04	2/	--
Pancake flour and other flour mixes	.1	.02	2/	--
Edible preparations, nspf	3.7	.79	.9	.18
Total	7.2	1.51	1.6	.32

1/ The effect on price was estimated using estimates of indirect imports of sugar, shown in table 24, and demand and supply elasticities shown in app. G.
2/ Less than 0.1 percent.

Source: Computed by the staff of the U.S. International Trade Commission.

items are estimated to have a very small effect on the domestic price of sugar. The items shown to have the greatest effect on price are candy and other confectionery and edible preparations, n.s.p.f. These two items taken together are estimated to be depressing the price of sugar by 1.5 to 6.3 percent, or by .30 to 1.33 cents per pound. Imports of sugar indirectly entering the United States through all of the items taken together are estimated to be depressing the price of sugar by 1.6 to 7.2 percent, or by .32 to 1.51 cents per pound.

The USDA stated that, based on past experience, a figure of 100,000 tons either in excess or in short supply of the desired equilibrium price and quantity, as a rule of thumb, causes the price of sugar to fall or rise by a half cent. 1/ By this rule of thumb, the effect on price of increased imports of sugar-containing articles is approximately 0.50 cent per pound. This estimate is within the range of the high and low estimates provided by this analysis.

Remedies Available Under Section 22

If the Commission finding is affirmative (i.e., imports are being entered or are practically certain to be entered in such quantities as to render or tend to render ineffective or materially interfere with the price-support program for sugarcane or sugar beets), the available remedies under section 22 are import quotas or import fees. The import quotas cannot restrict imports to less than half of what they were during a previous representative period. Import fees cannot exceed 50 percent ad valorem.

1/ Transcript of hearing, p. 24.

Fees generally restrict imports by raising import prices, making imports less attractive to purchasers relative to the domestic product. The primary advantage of a fee is that it operates through market forces and thus is less likely to cause supply dislocations or shortages. However, because the impact of the fee on the quantity of imports cannot be predicted, it is not as effective as a quota in holding imports to a specific desired level.

While fees as high as 50 percent ad valorem could be imposed in addition to existing duties, the desired fee on a particular item may be difficult to determine. If the goal is to offset any cost advantage to foreign producers resulting from the lower world price of sugar, then a fee could be applied that is based on the sugar content of the article and the difference between the world and U.S. price of sugar. A major difficulty with this method of assessing fees is that the fee that would be required to offset the cost advantage to foreign producers could exceed 50 percent ad valorem if the difference between the U.S. and world price is sufficiently large and the sugar content is sufficiently high.

If a quota is imposed, then the problem arises of choosing the appropriate level. 1/ The appropriate level of the quota depends on the extent to which the imports of these products are interfering with the price-support program.

A quota could be applied either globally or on a country-specific basis. A global quota is generally less restrictive than a country-specific quota because it allows suppliers some flexibility in responding to market signals. A global quota could be filled even if some countries were to export substantially less to the United States, because other countries would be able to increase their exports to the United States. In contrast, with a country-specific quota, countries that are increasing in importance as suppliers will be constrained by their allocations even though countries that are decreasing in importance may not fill their allocations.

With a global quota, competing foreign producers may rush exports to the United States at the beginning of each quota period to ensure that their own exports are entering the U.S. market before the quota is filled. One method of moderating this effect is to restrict the share of the quota that can be filled during any discrete period within the quota year. A country-specific quota would not be filled so quickly, especially if foreign governments control the quota allocations in their countries.

1/ Section 22 permits the imposition of quotas that restrict imports to levels as low as 50 percent of the amounts imported in a previous representative period.

APPENDIX A

THE PRESIDENT'S LETTERS TO THE COMMISSION AND PRESIDENTIAL PROCLAMATIONS NOS. 5294 AND 5340

THE WHITE HOUSE

WASHINGTON

March 22, 1985

Dear Madam Chairwoman:

Pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that certain articles containing sugar or sirups derived from sugar cane or sugar beets are practically certain to be imported under such conditions, at such prices, and in such quantities as to materially interfere with the price support program for sugar cane and sugar beets undertaken by the Department of Agriculture.

Specifically, reference is made to the following articles to the extent that they contain sugar derived from sugar beets or sugar cane and are not within the scope of items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:

<u>TSUS Items</u>	
	155.35
	156.45
	156.47
	157.10
	182.90
	182.92
	183.01
	183.05
	184.7070

The United States International Trade Commission is therefore directed to make an investigation under Section 22 of the Agricultural Adjustment Act of 1933, as amended, to determine whether the articles specified above are being, or are practically certain to be imported under such conditions, at such prices, and in such quantities as to materially interfere with the price support program of the

Department of Agriculture for sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date.

The Secretary has also determined and reported to me, pursuant to Section 22(b) of the Agricultural Adjustment Act of 1933, as amended, that a condition exists requiring emergency treatment with respect to certain articles containing sugar or sirups derived from sugar cane or sugar beets as described below, and has therefore recommended that I take prompt action under Section 22(b) to restrict the quantity of these articles which may be entered. I have therefore, on January 28, 1985, issued a proclamation establishing quotas, as indicated below, for the following articles:

TSUS Item	Description	Quota Level
	Articles containing sugar derived from sugar beets or sugar cane, except articles subject to items 958.10, 958.15 or other import restrictions under part 3 of the Appendix to the Tariff Schedules of the United States:	
156.45		3,000 short tons
183.01		7,000 short tons
183.05		84,000 short tons

These quotas will continue in effect pending the report and recommendations of the United States International Trade Commission and action that I may take thereon.

Sincerely,

Ronald Reagan

The Honorable Paula Stern
Chairwoman
United States International
Trade Commission
701 E Street, N.W.
Washington, D.C. 20436

THE WHITE HOUSE

WASHINGTON

May 17, 1985

Dear Madam Chairwoman:

This is to inform you that, pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended, I have modified, on an emergency basis, the description of the articles covered by the quotas established in Proclamation No. 5294 to permit the entry of:

-- articles containing 10 percent or less by dry weight of sugar and,

-- articles containing over 10 percent by dry weight of sugar if they are:

(a) not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to the retail consumers in the identical form and package in which imported;

(b) within the scope of item 183.05, contain not over 65 percent by dry weight of sugar, and are cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections;

(c) within the scope of item 183.05, contain not over 65 percent by dry weight of sugar, and are finely ground or masticated coconut meat or juice mixed with sugar; or

(d) within the scope of item 183.0505, contain 20 percent or less by dry weight of sugar.

An unexpectedly large volume of imports of these sugar-containing articles has caused the quotas for these articles to be closed or nearly closed for this fiscal year. This early closing of these quotas was unanticipated and is working or is expected to work severe hardship on importers and users of a number of articles containing relatively small amounts of sugar.

I believe it is appropriate not to cause such hardship in connection with these articles in the context of emergency action, but rather to permit their entry pending the investigation by the United States International Trade Commission.

Therefore, I have issued this day a proclamation modifying the description of the articles covered by the quotas established in Proclamation No. 5294 to permit the entry of articles as indicated above.

Sincerely,

Ronald Reagan

The Honorable Paula Stern
Chairwoman
United States International
Trade Commission
701 E Street, N.W.
Washington, D.C. 20536

Federal Register
Vol. 50, No. 20
Wednesday January 30, 1985

Presidential Documents

Title 3—

The President

Proclamation 5294 of January 28, 1985

Import Quotas on Certain Sugar Containing Articles

By the President of the United States of America

A Proclamation

1. By Proclamation No. 5071 of June 28, 1983, I imposed, on an emergency basis, import quotas on certain sugars, blended sirups, and sugars mixed with other ingredients. These quotas were to be effective pending my further action after receipt of the report and recommendations of the United States International Trade Commission (hereinafter "Commission") on this matter pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) (hereinafter "Section 22"). The Commission has made its investigation and reported its findings to me.

2. The Secretary of Agriculture has advised me that he has reason to believe that certain other sugar containing articles, not covered by Proclamation No. 5071, are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets.

3. I agree that there is reason for such belief by the Secretary of Agriculture and, therefore, I am requesting the Commission to make an investigation with respect to this matter pursuant to Section 22, and report its findings and recommendations to me as soon as possible.

4. The Secretary of Agriculture has also determined and reported to me with regard to the sugar containing articles described in paragraph (B) below that a condition exists which requires emergency treatment and that the import quotas hereinafter proclaimed should be imposed without awaiting the report and recommendations of the Commission.

5. On the basis of the information submitted to me, I find and declare that:

(a) On the basis of the report and recommendations of the Commission, the articles described in items 958.10 and 958.15 of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support operations of the Department of Agriculture for sugar cane and sugar beets;

(b) A condition exists requiring the imposition, on an emergency basis, of the import quotas hereinafter proclaimed with regard to the sugar containing articles described in paragraph (B) below; and

(c) The representative period within the meaning of the first proviso to subsection (b) of Section 22 is, for imports of the articles described in TSUS items 958.10 and 958.15, the years 1978–81, during which there were no imports of the articles described in TSUS items 958.10 and 958.15; and for imports described in paragraph (B) below, the years 1978–81.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by Section 22 of the Agricultural Adjustment Act of 1933, as amended, and the Constitution and Statutes of the United States, do hereby proclaim as follows:

(A) TSUS items 958.10 and 958.15 of Part 3 of the Appendix to the Tariff Schedules of the United States are continued in effect subject to the provisions of paragraph (C) below;

(B) Part 3 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence following TSUS item 958.15 the following items:

Item	*Articles*	*Quota Quantity*	*Effective Period*
	During the period beginning on the effective date of this proclamation through September 30, 1985, if the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:		
	Articles containing sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:		
958.16	Provided for in TSUS item 156.45	1,000 short tons	Until 10/1/85
958.17	Provided for in TSUS item 183.01	2,500 short tons	Until 10/1/85
958.18	Provided for in TSUS item 183.05	28,000 short tons	Until 10/1/85
	Beginning October 1, 1985, whenever, in any 12-month period beginning October 1 in any year, the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:		
	Articles containing sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:		
958.20	Provided for in TSUS item 156.45	3,000 short tons	
958.25	Provided for in TSUS item 183.01	7,000 short tons	
958.30	Provided for in TSUS item 183.05	84,000 short tons	

(C) The provisions of this proclamation shall terminate upon the filing of a notice in the **Federal Register** by the Secretary of Agriculture that the Department of Agriculture is no longer conducting a price support program for sugar cane and sugar beets.

(D) Pending Presidential action upon receipt of the report and recommendations of the Commission referenced in paragraph 3 above, the quotas established by paragraph (B) of this proclamation shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the effective date of this proclamation. However, those quotas shall not apply to articles entered, or withdrawn from warehouse, for consumption if application of those quotas would prevent the entry, or withdrawal from warehouse, for consumption of the articles and if the articles were (1) exported from the country of origin prior to the effective date of this proclamation and (2) imported directly into the United States, as determined by the appropriate customs officials, in accordance with the criteria set forth at 19 CFR 10.174, 10.175 (1984).

(E) This proclamation shall be effective as of 12:01 a.m. Eastern Standard Time on the day following the date of its signing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of Jan., in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-2554
Filed 1-28-85; 4:19 pm.]
Billing code 3195-01-M

Federal Register
Vol. 50, No. 98
Tuesday, May 21, 1985

Presidential Documents

Title 3—

The President

Proclamation 5340 of May 17, 1985

Modification of Import Quotas on Certain Sugar Containing Articles

By the President of the United States of America

A Proclamation

1. By Proclamation No. 5294 of January 28, 1985, I imposed, on an emergency basis, import quotas on certain sugar containing articles pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) ("Section 22"). These quotas were to remain in effect pending investigation by the United States International Trade Commission (the "Commission") and Presidential action on the report and recommendations of the Commission.

2. The Secretary of Agriculture has advised me that, due to unexpected circumstances, it is appropriate to modify those import quotas, pending the investigation, report, and recommendations of the Commission, to permit the entry of certain articles currently excluded by those quotas.

3. I agree that it is appropriate to modify those quotas immediately while awaiting the investigation, report, and recommendations of the Commission.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by Section 22 of the Agricultural Adjustment Act of 1933, as amended, and the Constitution and statutes of the United States of America, do hereby proclaim as follows:

A. Part 3 of the Appendix to the Tariff Schedules of the United States is amended by:

(1) inserting in the superior heading for items 958.16 through 958.18—

(a) "(Proclamation No. 5294, effective January 29, 1985)" after "on the effective date of this proclamation";

(b) "over 10 percent by dry weight of" immediately after "Articles containing"; and

(c) the words "(a) articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to the retail consumers in the identical form and package in which imported, or (b)" immediately after "except";

(2) deleting—

(a) the column heading "Effective Period" above the superior heading for items 958.16 through 958.18;

(b) "Until 10/1/85" for each of items 958.16 through 958.18; and

(c) items 958.20, 958.25, and 958.30 together with their superior headings;

(3) inserting in item 958.18 the words ", except cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with those sugars; and minced seafood preparations within the scope of item 183.05 containing 20 percent or less by dry weight of these sugars" immediately after "183.05"; and

(4) effective on October 1, 1985—

(a) the superior heading to items 958.16 through 958.18 is modified by striking out the words "During the period beginning on the effective date of this proclamation (Proclamation No. 5294, effective January 29, 1985) through September 30, 1985, if" and inserting in their place "Whenever, in any 12-month period beginning October 1 in any year,"; and

(b) by striking out the quota quantities "1,000 short tons", "2,500 short tons", and "28,000 short tons" from items 958.16, 958.17, and 958.18, respectively, and inserting in their place "3,000 short tons", "7,000 short tons", and "84,000 short tons", respectively.

B. This proclamation shall be effective as of 12:01 a.m. Eastern Daylight Time on the second day following the date of signing.

C. The quotas for items 958.16 through 958.18 shall terminate upon the filing of a notice in the **Federal Register** by the Secretary of Agriculture that the Department of Agriculture is no longer conducting a price support program for sugar cane and sugar beets.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of May, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-12330
Filed 5-17-85; 4:25 pm]
Billing code 3195-01-M

Editorial note: For the President's letter, dated May 17, 1985, to the Chairman of the U.S. International Trade Commission on the import quotas, see the *Weekly Compilation of Presidential Documents* (vol. 21, no. 20).

APPENDIX B

COMMISSION'S NOTICE OF INSTITUTION AND WITNESSES APPEARING AT THE HEARING

[Investigation No. 22-48]

Certain Articles Containing Sugar

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) and scheduling of a public hearing in connection therewith.

SUMMARY: Following receipt on March 22, 1985, of a request from the President for an investigation under section 22 of the Agricultural Adjustment Act, the Commission instituted investigation No. 22-48 for the purpose of determining whether certain articles containing sugar derived from sugar cane or sugar beets, not within the scope of other section 22 restrictions, and provided for in items 155.35, 156.45, 156.47, 157.10, 182.90, 182.92, 183.01, 183.05, and 184.7070 of the Tariff Schedules of the United States Annotated (TSUSA), are being or are practically certain to be imported under such conditions and in such quantities as to materially interfere with the price support program of the Department of Agriculture for sugar cane and sugar beets.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Lowell Grant (202-724-0099) or Stephen Burket (202-724-0099), Agriculture Division, Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The President's letter, which was dated March 22, 1985, stated that "I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that certain articles containing sugar or sirups derived from sugar cane or sugar beets are practically certain to be imported under such conditions, at such prices, and in such quantities as to materially interfere with the price support program for sugar cane and sugar beets undertaken by the Department of Agriculture." The President directed that the Commission investigate to determine whether such articles containing sugar are "practically certain to be imported under such conditions, as such prices, and in such quantities as to materially interfere with the price support program of the Department of Agriculture for sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date."

The President's letter also stated "The Secretary has also determined and reported to me, pursuant to section 22(b) of the Agricultural Adjustment Act of 1933, as amended, that a condition exists requiring emergency treatment with respect to certain articles containing sugar or sirups derived from sugar cane or sugar beets as described below, and has therefore recommended that I take prompt action under section 22(b) to restrict the quantity of these articles which may be entered. I have therefore, on January 28, 1985, issued a proclamation establishing quotas for the following articles containing sugar derived from sugar beets or sugar cane, except articles subject to items 958.10, 958.15 or other import restrictions under part 3 of the Appendix to the Tariff Schedules of the United States:

TSUS item	Quota level (short tons)
156.45	3,000
183.01	7,000
183.05	84,000

These quotas will continue in effect pending the report and recommendations of the United States International Trade Commission and action that I may take thereon."

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on July 17, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 28, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 24, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 28, 1985.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Posthearing briefs shall not exceed ten (1) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on July 24, 1985. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearings briefs or answers which do not comply with the provisions contained in this notice.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 24, 1985. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 204.2 of the Commission's rules (19 CFR 204.2).

By order of the Commission.

Issued: April 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10603 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

CALENDAR OF PUBLIC HEARING

Those listed below are scheduled to appear as witnesses at the United States International Trade Commission's hearing:

Subject : Certain Articles Containing Sugar

Inv. No. : 22-48

Date and time: July 17, 1985 - 10:00 a.m.

Sessions will be held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

U. S. Government witnesses:

United States Department of Agriculture, Washington, D.C.

Thomas Kay, Deputy Under Secretary for International Affairs and Commodity Programs

John Nuttall, Foreign Agricultural Service

Daniel Brinza, Office of the General Counsel

Domestic:

Ablondi & Foster, P.C.--Counsel
Washington, D.C.
on behalf of

The United States Beet Sugar Association, Washington, D.C.

David Carter, President

F. David Foster--OF COUNSEL

Hawaiian Sugar Planters Association, Washington, D.C.

Rudy Ceragioli, California and Hawaiian Sugar Company

Eiler C. Ravnholt, Vice President, Hawaiian Sugar Planters Association

Baker & McKenzie--Counsel
Washington, D.C.
on behalf of

Amstar Corporation, New York, N.Y.

Roger D. Chesley, Vice President and General Counsel

Thomas P. Ondeck--OF COUNSEL

Weil, Gotshal and Manges--Counsel
Washington, D.C.
on behalf of

Chocolate Manufacturers Association of the United States of America, McLean, Virginia

Richard T. O'Connell, President

Theodore M. Van Leer, Vice President, Van Leer Chocolate Corporation

Stewart M. Rosen)
Thomas A. Ehrgood) --OF COUNSEL

National Confectioners Association of the United States, Chicago, Illinois

Richard T. O'Connell, President, Chocolate Manufacturers Association of the U.S. of America

Milton Radutzky, Secretary/Treasurer, Joyva Corporation

Cocoline Chocolate Company, Inc., Brooklyn, N.Y.

Leonard S. Halpert, Vice-Chairman

4 C Foods Corporation, Brooklyn, N.Y.

Daniel C. Swartz, Vice-President

IMPORTERS:

Donohue and Donohue--Counsel
New York, N.Y.
on behalf of

Peter Paul Cadbury, Inc.

James A. Hanlon, President

William J. Phelan)
Russell W. MacKechnie, Jr.)--OF COUNSEL

Serko & Simon--Counsel
New York, N.Y.
on behalf of

Russ Berrie & Company, Inc., Oakland, New Jersey

Joel K. Simon--OF COUNSEL

Arent, Fox, Kintner, Plotkin & Kahn--Counsel
Washington, D.C.
on behalf of

Grand Specialties, Ltd.

Richard Collins

Stephen L. Gibson)
Joseph E. Sandler)--OF COUNSEL

McKenna, Conner & Cuneo--Counsel
Washington, D.C.
on behalf of

The Food and Confectionery Group of the American Association of Exporters and Importers, Albert Uster Imports, Inc., and Chocosuisse, Berne, Switzerland

Jeffrey P. Altman)
Kenneth W. Weinstein)--OF COUNSEL
Michael T. Janik)

Sonnenberg, Anderson & O'Donnell--Counsel
Chicago, Illinois
on behalf of

Rowntree DeMet's, Inc.

Barry Fulford

Paul S. Anderson--OF COUNSEL

Frost & Jacobs--Counsel
Cincinnati, Ohio
on behalf of

Van Melle, Inc., Kentucky corporation involved in the distribution of confectionery products through the U.S.

Steven Bruner, Marketing Director

Myron L. Dale--OF COUNSEL

Max N. Berry--Counsel
Washington, D.C.
on behalf of

The Association of the Chocolate, Biscuit, and Confectionery Industries of the EEC

Walter Cools, Executive Director
Peter Hopwood, Chairman

Max N. Berry)
Marsha Echols)--OF COUNSEL

National Fisheries Institute, Inc., Washington, D.C.

Lee J. Weddig, Executive Vice President

Richard E. Gutting, Jr., Esq., Vice President, Government Relations

Max N. Berry--Counsel
Washington, D.C.
on behalf of

The National Association of the Specialty Food Trade, Inc., New York, N.Y.

John Hamstra, President

Jeanne Maraz, Executive Director

Max N. Berry)
Marsha Echols)--OF COUNSEL

Stroock & Stroock & Lavan--Counsel
New York, N.Y.
on behalf of

Ingredient Technology Corporation

Jay P. Mayesh--OF COUNSEL

Holland & Knight--Counsel
Washington, D.C.
on behalf of

Libby, McNeill & Libby

Dickson R. Loos)
Mac S. Dunaway)--OF COUNSEL
David H. Baker)

Burditt, Bowles & Radzius, Ltd.--Counsel
Chicago, Illinois
on behalf of

Callard & Bowser (U.S.A.) Inc., White Plains, New York

Joseph R. Radzius)
Mark S. Zolno)--OF COUNSEL
Michael A. Swit)

Burditt, Bowles & Radzius, Ltd.--Counsel
Chicago, Illinois
on behalf of

Beatrice Companies, Inc., Chicago, Illinois

Joseph R. Radzius)
Mark S. Zolno)--OF COUNSEL
Michael A. Swit)

Fabio Imports, Torrance, California

Fabio C. Peraro, President

Group of Latin-American and Carribean Sugar Exporting Countries, Mexico

Eduardo Latorre, Executive Sercretary

Jose Cerro, Assistant Secretary, Market & Statistics

Coudert Brothers--Counsel
Washington, D.C.
on behalf of

Bundesvereinigung der Deutschen Ernahrungsindustrie, e.V., German Food Industry Association

Dr. Ahrend Oetker, President

Milo G. Coerper)
Robert A. Lipstein)--OF COUNSEL

Coudert Brothers--Counsel
Washington, D.C.
on behalf of

Centrale Maketinggesellschaft der deutschen Agrarwirtschaft (CMA), German Agricultural Marketing Board, a German quasi-governmental agency

Dr. Schuetze, Executive Director, German Confectionery Association

Knut Wiesner, Director, German Confectionery Association

Elisabeth Salchow, Consultant

Werner J. Gneiting, Managing Director, CMA, New York, N.Y.

Milo G. Coerper)
Robert A. Lipstein)--OF COUNSEL

Steptoe & Johnson--Counsel
Washington, D.C.
on behalf of

The Canadian Sugar Institute

Robert S. Thompson, President

Ted Burgess, Redpath Industries, Ltd.

W. C. Brown, B.C. Sugar, Ltd.

A. O. Bergeron, Lantic Sugar, Ltd.

W. George Grandison)
Daniel J. Plaine)--OF COUNSEL

McClure & Trotter--Counsel
Washington, D.C.
on behalf of

The International Sugar Policy Coordinating Commission of the Dominican Republic

Robert W. Johnson II--OF COUNSEL

Korean Traders Association, Washington, D.C.

Eun-Sang Kim, Executive Director, Korean Traders Association

Hee-Jin Kim, General Manager, Korean Traders Association

Howard Jang, Secretary, Samyang U.S.A. Inc.

Craig VanGrasstek, Economist, Korean Traders Association

Adduci, Dinan & Mastriani--Counsel
Washington, D.C.
on behalf of

GAMESA S.A., a manufacturer and an exporter of food and confectionary products

Leslie Alan Glick)--OF COUNSEL
Karen J. Vogel)

Wald, Harkrader & Ross--Counsel
Washington, D.C.
on behalf of

The Sindicato da Industria de Produtos de Cacau e Balas de Sao Paulo

Royal Daniel, III)--OF COUNSEL
Rebecca Matthews)

Jamaica National Export Corporation

Errol James, Trade Commissioner

APPENDIX C

U.S. SUGAR IMPORT DUTIES, IMPORT FEES, AND QUOTAS, APRIL 1, 1982-MAY 17, 1985

.—Sugar (TSUS items 155.20 and 155.30): U.S. import duties, import fees, and quotas, Apr. 1, 1982-May 17, 1985

Effective date	Action	Authority	Rate of duty: Col. 1: 96° raw sugar	Rate of duty: Col. 1: 100° refined sugar	Rate of duty: Col. 2: 96° raw sugar	Rate of duty: Col. 2: 100° refined sugar	Sec. 22 fees 1/: Raw sugar 2/	Sec. 22 fees 1/: Refined sugar 3/	Quotas and other actions
			Cents per pound						
Apr. 1, 1982	47 F.R. 14200 (Apr. 2, 1982).	Presidential Proclamation: No. 4887.	4/ 2.8125	4/ 2.98125	4/ 2.8125	4/ 2.98125	3.0703	4.1782	–
Apr.21, 1982	47 F.R. 17600 (Apr. 23, 1982).	Presidential Proclamation: No. 4887.	–	–	–	–	4.0703	5.1782	–
May 6, 1982	Presidential Proclamation: No. 4940.	Sec. 22	–	–	–	–	4.0703	5.0703	–
							Modified procedure for Secretary of Agriculture to establish and adjust fees—Marginal Selling Price revised to 19.88.		
May 11, 1982	Presidential Proclamation: No. 4941.	Headnote 2	–	–	–	–	4.0703	5.0703	Establishes certificate of eligibility system. All countries in "basket category" assigned quotas according to pro rata share of category or of 16,500 short tons, whichever is greater. Quota for May 11-June 30, 1982—220,000 short tons.
July 1, 1982	47 F.R. 26420 (June 18, 1982).	Presidential Proclamation: No. 4941.	–	–	–	–			Establishes quota for 3d quarter of 1982—420,000 short tons.
July 1, 1982	47 F.R. 28442 (June 30, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–	3.4193	4.4193	–
July 21, 1982	47 F.R. 31905 (July 23, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–	2.4193	3.4193	
Aug.10, 1982	47 F.R. 35027 (Aug. 12, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–	1.4193	2.4193	–
Aug.28, 1982	47 F.R. 38566 (Sept. 1, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–	0.4193	1.4193	–
Oct. 1, 1982	47 F.R. 41407 (Sept. 20, 1982).	Presidential Proclamation: No. 4941.	–	–	–	–			Quota for Oct. 1, 1982-Sept. 30, 1983, 2.8 million short tons.
Oct. 1, 1982	47 F.R. 34812, 34870 (Aug. 11, 1982).	Presidential Proclamation: No. 4941.							Modifies allocation provisions and establishes annual quotas.

See footnotes at end of table.

.—Sugar (TSUS items 155.20 and 155.30): U.S. import duties, import fees, and quotas, Apr. 1, 1982-May 17, 1985—(Continued)

Effective date	Action	Authority	Rate of duty: Col. 1: 96° raw sugar	Rate of duty: Col. 1: 100° refined sugar	Rate of duty: Col. 2: 96° raw sugar	Rate of duty: Col. 2: 100° refined sugar	Sec. 22 fees 1/: Raw sugar 2/	Sec. 22 fees 1/: Refined sugar 3/	Quotas and other actions
			Cents per pound						
Oct. 1, 1982	47 F.R. 42766 (Sept. 29, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–	0.00	1.00	
Oct. 1, 1982	47 F.R. 43101 (Sept. 30, 1982).	Presidential Proclamation: No. 4940.	–	–	–	–			MSP set at 20.73 for FY 1983.
Apr. 1, 1983	48 F.R. 13212 (Mar. 30, 1983).	Presidential Proclamation: No. 4940.	–	–	–	–	0.00	1.00	
June 22, 1983	48 F.R. 28771 (June 23, 1983).	Presidential Proclamation: No. 4941.	–	–	–	–			Establishes "specialty sugar" for countries exporting sugar to the U.S. during 1974-81, but not covered by quota. Quota set at 80 short tons per country.
June 23, 1983	48 F.R. 28679 (June 23, 1983).	Presidential Proclamation: No. 4941.	–	–	–	–			Expands Oct. 1, 1982-Sept. 30, 1983, quota from 2.8 million by 2,000 to account for "specialty sugar" imports from countries not otherwise covered by quota.
June 28, 1983	48 F.R. 29824 (June 28, 1983).	Presidential Proclamation: No. 4941.	–	–	–	–			Promulgates final rule on "specialty sugar" license system.
June 29, 1983	Presidential Proclamation: No. 5071.	Sec. 22	–	–	–	–			Establishes a quota of zero for certain articles containing sugar.
July 1, 1983	48 F.R. 29932	Presidential Proclamation: No. 4940.	–	–	–	–	0.00	1.00	
Sept. 1, 1983	48 F.R. 49895 (Oct. 28, 1983).	Presidential Proclamation: No. 4940.	–	–	–	–			MSP set at 21.17 for FY 1984.
Sept. 20, 1983	48 F.R. 42843 (Sept. 20, 1983).	Presidential Proclamation: No. 4941.	–	–	–	–			Quota for Sept. 26, 1982-Sept. 30, 1984,—2,952,000 short tons.
Sept. 26, 1983	Presidential Proclamation: No. 5104.	Sec. 201	–	–	–	–			Modifies country allocations-reduces Nicaragua to 6,000 short tons; redistributes remainder among El Salvador, Honduras and Costa Rica.
Oct. 1, 1983	48 F.R. 44219 (Sept. 28, 1983).	Presidential Proclamation: No. 4940.	–	–	–	–	0.00	1.00	
Mar. 19, 1984	Presidential Proclamation: No. 5164	Sec. 22	–	–	–	–			Imposes import fees for certain sugars, sirups, and molasses.
April 1, 1984	49 F.R. 11862 (Mar. 28, 1984).	Presidential Proclamation: No. 5164.	–	–	–	–	0.00	1.00	
April 5, 1984	49 F.R. 13560 (Apr. 5, 1984).	Presidential Proclamation: No. 4941.	–	–	–	–			Quota for Sept. 26, 1983-Sept. 30, 1984-3,050,000 short tons.

See footnotes at end of table.

.—Sugar (TSUS items 155.20 and 155.30): U.S. import duties, import fees, and quotas, Apr. 1, 1982–May 17, 1985—(Continued)

Effective date	Action	Authority	Rate of duty: Col. 1: 96° raw sugar	Rate of duty: Col. 1: 100° refined sugar	Rate of duty: Col. 2: 96° raw sugar	Rate of duty: Col. 2: 100° refined sugar	Sec. 22 fees 1/: Raw sugar 2/	Sec. 22 fees 1/: Refined sugar 3/	Quotas and other actions
			Cents per pound						
Aug. 31, 1984	49 F.R. 35671 (Sept. 11, 1984).	Presidential Proclamation No. 5164.	–	–	–	–			MSP set at 21.57 for FY 1985.
Sept. 14, 1984	49 F.R. 36669 (Sept. 19, 1984).	Presidential Proclamation No. 4941.	–	–	–	–			Quota for Oct. 1, 1984–Sept. 30, 1985–2,552,000 short tons.
Jan. 1, 1985	50 F.R. 299 (Jan. 3, 1985).	Presidential Proclamation No. 5164.	–	–	–	–	0.2875	1.2875	
Jan. 16, 1985	50 F.R. 2303 (Jan. 16, 1985).	Presidential Proclamation No. 4941.	–	–	–	–			Changes import quota year to Oct. 1, 1984–Nov. 30, 1985.
Jan. 28, 1985	Presidential Proclamation No. 5294	Sec. 22	–	–	–	–			Establishes import quotas on certain sugar containing articles.
Jan. 31, 1985	Presidential Proclamation No. 5297	Headnote 2	0.625	0.6625	1.875	1.9875			
Feb. 12, 1985	50 F.R. 6222 (Feb. 14, 1985).	Presidential Proclamation No. 5164.	–	–	–	–	1.2875	2.2875	
Mar. 5, 1985	50 F.R. 9303 (Mar. 7, 1985).	Presidential Proclamation No. 5164.	–	–	–	–	2.2875	3.2875	
Mar. 29, 1985	Presidential Proclamation No. 5313	Sec. 22	–	–	–	–	0.00	1.00	Suspends and modifies import fees established in Pres. Proc. 5164.
Apr. 1, 1985	50 F.R. 13257 (Apr. 3, 1985).	Presidential Proclamation No. 5164.	–	–	–	–	2.7185	3.7185	Superceded by Pres. Proc. 5313
May 17, 1985	Presidential Proclamation No. 5340	Sec. 22	–	–	–	–			Modifies import quotas established in Pres. Proc. 5294.

1/ Sec. 22 fees may not exceed 50 percent ad valorem.
2/ Sugar to be further refined or improved in quality.
3/ Sugar not to be further refined or improved in quality.
4/ Rates in effect since Dec. 23, 1981.

APPENDIX D

QUOTA PROVISIONS, AS PROCLAIMED BY PROCLAMATION NO. 5294 AND AS REVISED BY PROCLAMATION NO. 5340

Quotas as Imposed by Proclamation 5294 and as Modified by Proclamation 5340 1/

Item	Articles	Quota Quantity	Effective period
	During the period beginning on the effective date of this proclamation through September 30, 1985, if the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period		
	Articles containing <u>over 10 percent by dry weight of</u> sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except **<u>articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to retail consumers in the identical form and package in which imported,</u>** articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:		
958.16	Provided for in TSUS item 156.45.	1,000 short tons	Until 10/1/85
958.17	Provided for in TSUS item 183.01.	2,500 short tons	Until 10/1/85
958.18	Provided for in TSUS item 183.05 **<u>except cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice there of mixed with those sugars; and minced seafood preparations within the scope of item 183.05 containing 20 percent or less by dry weight of those sugars.</u>**	28,000 short tons	Until 10/1/85

1/ <u>Underscoring</u> indicates additions and brackets [ ] indicate deletions by Proclamation 5340.

[Beginning October 1, 1985, whenever, in any 12-month period beginning October 1 in any year, the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:]

[Articles containing sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except articles within the scope of TSUS items 958.10, 958.15, or other import rsstrictions provided for in Part 3 of the Appendix to the Tariff Schedules of the United States:]

[958.20	Provided for in TSUS item 156.45	3,000 short tons]
[958.25	Provided for in TSUS item 183.01	7,000 short tons]
[958.30	Provided for in TSUS item 183.05	84,000 short tons]

Effective on October 1, 1985--

Item	Articles	Quota Quantity
	[During the period beginning on the effective date of this proclamation through September 30, 1985, if] **Whenever, in any 12-month period beginning October 1 in any year,** the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period.	

Articles containing **over 10 percent by dry weight of** sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except **articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to retail consumers in the identical form and package in which imported,** articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:

958.16	Provided for in TSUS item 156.45	[1,000] short tons **3,000**
958.17	Provided for in TSUS item 183.01	[2,500] short tons **7,000**
958.18	Provided for in TSUS item 183.05 **except cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with those sugars; and minced seafood preparations within the scope of item 183.05 containing 20 percent or less by dry weight of those sugars.**	[28,000] short tons **84,000**

APPENDIX E

EXCERPTS FROM THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Sugars, sirups, and molasses, derived from sugar cane or sugar beets:				
A*	155.20		Principally of crystalline structure or in dry amorphous form 1/	....	2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb. 2/		2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb. 2/
		25	In any form suitable for immediate human consumption without further refining	Lb.			
		45	Other	S. ton raw value.v Lb.			
	155.21		If products of Cuba	....	0.53¢ per lb. less 0.0075¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.3425¢ per lb. (s)		
			Not principally of crystalline structure and not in dry amorphous form:				
A	155.30	00	Containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids 1/	Lb. total sugars	Dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees 2/		Dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees 2/
	155.31		If products of Cuba	....	Dutiable on total sugars at the rate per lb. applicable under Item 155.21 to sugar testing 100 degrees (s)		

(s) = Suspended. See general headnote 3(b).

1/ Imports of cane and beet sugar are subject to absolute quotas (see headnote 3).

2/ Certain imports of sugars, sirups, and molasses, derived from sugar cane or sugar beets are subject to additional section 22 fees or licensing requirements. See items 956.05, 956.15, and 957.15, and headnote 4, in part 3, Appendix to the Tariff Schedules.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 10. - Sugar; Cocoa; Confectionery

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Sugars, sirups, and molasses, derived from sugar cane or sugar beets (con.):				
			Not principally of crystalline structure and not in dry amorphous form (con.):				
A	155.35	00	Other	Gal	2.9c per gal.		6.8c per gal.
	155.36		If products of Cuba		2.1c per gal.(s)		
A	155.40	00	Sugars, sirups, molasses, and mixtures thereof; all the foregoing derived from sugar cane or sugar beets and containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to over 6% by weight of the total soluble solids, if imported for use other than (a) the commercial extraction of sugar, or (b) human consumption	Gal.v 1/ Lb.total sugars	0.012c per lb. of total sugars		0.03c per lb. of total sugars
	155.41		If products of Cuba		0.01c per lb. of total sugars (s)		
	155.50	00	Maple sugar	Lb	Free		6c per lb.
	155.55	00	Maple sirup	Lb	Free		4c per lb.
A	155.60	00	Dextrose	Lb	1.6c per lb.		2c per lb.
	155.65	00	Dextrose sirup	Lb	1.6c per lb.		2c per lb.
	155.70	00	Honey	Lb	1c per lb.		3c per lb.
A	155.75		Sugars, sirups, and molasses, described in this subpart, flavored; and sirups, flavored or unflavored, consisting of blends of any of the products described in this subpart		8.3% ad val. 2/3/	6% ad val.	20% ad val.
		20	High fructose sirup derived solely from starches	Lb.			
		40	Other	Lb.			

(s) = Suspended. See general headnote 3(b).

1/ Report gallons of dried molasses on basis of 6 pounds total sugars to one gallon.
2/ Certain blended sirups subject to quota. See item 958.10 in part 3, Appendix to the Tariff Schedules.
3/ Certain sugar derived from sugar cane or sugar beets subject to quota. See items 958.10 and 958.15 in part 3, Appendix to the Tariff Schedules.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Subpart B. - Cocoa				
			Subpart B headnote:				
			1. The term "chocolate", as used in this subpart, shall be limited to products (whether or not confectionery) consisting wholly of ground cocoa beans, with or without added fat, sweetening, milk, flavoring, or emulsifying agents.				
	156.10	00	Cocoa beans	Lb.	Free		Free
			Chocolate:				
	156.20	00	Not sweetened	Lb.	Free		3¢ per lb.
			Sweetened:				
A	156.25	00	In bars or blocks weighing 10 pounds or more each	Lb.	0.1¢ per lb.	Free	4¢ per lb.
A	156.30		In any other form		5% ad val.		40% ad val.
		20	For consumption at retail as candy or confection	Lb.			
			Other:				
		45	Not containing butterfat or other milk solids	Lb.			
			Other:				
		50	Containing over 5.5 percent by weight of butterfat (item 950.15)	Lb.			
		65	Containing not over 5.5 percent by weight of butterfat or containing other milk solids (item 950.16)	Lb.			
	156.35	00	Cocoa butter	Lb.	Free		25% ad val.
A	156.40	00	Cocoa, not sweetened, and cocoa cake suitable for reduction to cocoa powder	Lb.	0.37¢ per lb.		3¢ per lb.
	156.45	00	Cocoa, sweetened	Lb.	Free 1/		40% ad val.
A	156.47	00	Confectioners' coatings and other products (except confectionery) containing by weight not less than 6.8 percent non-fat solids of the cocoa bean nib and not less than 15 percent of vegetable fats other than cocoa butter	Lb.	2.5% ad val.		35% ad val.
			Cocoa cake not suitable for reduction to cocoa powder, and other residues from the processing of cocoa beans:				
	156.50	00	Cocoa bean shells	Lb.	Free		Free
	156.55	00	Other	Lb.	Free		10% ad val.

1/ Certain sugar derived from sugar cane or sugar beets subject to quota. See item 958.15 in part 3, Appendix to the Tariff Schedules.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Subpart C. - Confectionery				
			Subpart C headnotes: 1. If chocolate, candy, cakes, glacé fruits or nuts, or other confections are mixed or packed together, they shall be treated as a tariff entirety subject to the highest rate of duty applicable to any product in the assortment. 2. The term "confectionery", as used in this subpart, covers confections or sweetmeats ready for consumption. This subpart does not cover all confectionery (see subpart B of this part, part 9 of schedule 1, and subpart B of part 15 of schedule 1 for other provisions covering confectionery).				
A	157.10		Candy, and other confectionery, not specially provided for		7% ad val.		40% ad val.
		20	Not containing cocoa or chocolate	Lb.			
		40	Containing cocoa or chocolate	Lb.			

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Macaroni, noodles, vermicelli, and similar alimentary pastes:				
A	182.35	00	Not containing egg or egg products	Lb.	0.12c per lb.	Free	2c per lb.
A	182.36	00	Containing egg or egg products	Lb.	0.1c per lb.	Free	3c per lb.
A	182.40	00	Non-alcoholic preparations of yeast extract (other than sauces) for flavoring or seasoning food	Lb.	5% ad val.		20% ad val.
			Sauces:				
A	182.45	00	Thin soy	Lb.	3% ad val.		35% ad val.
A	182.46	00	Other	Lb.	7.5% ad val.		35% ad val.
	182.48	00	Seaweeds and other marine plants prepared for use as human food or as an ingredient in such food	Lb.	Free		Free
A	182.49	00	Shrimp chips	Lb.	5.5% ad val.		20% ad val.
			Soups, soup rolls, soup tablets or cubes, and other soup preparations:				
	182.50	00	Containing oysters or oyster juice	Lb.	3c per lb. (including wt. of immediate container)		8c per lb. (including wt. of immediate container)
A	182.52	00	Other	Lb.	7% ad val.		35% ad val.
	182.53	00	Spring rolls and stuffed steamed bread dumplings	Lb.	5% ad val.		20% ad val.
			Vinegar:				
	182.55	00	Malt	Pf. gal.	Free		8c per proof gal.
A	182.58	00	Other	Pf. gal.	3c per proof gal.		8c per proof gal.
	182.60	00	Watermelon seeds, prepared or preserved	Lb.	5% ad val.		20% ad val.
	182.70	00	Wild rice, crude or processed	Lb.	2.5% ad val.		10% ad val.
			Edible preparations not specially provided for (including prepared meals individually packaged):				
A	182.90	00	Of gelatin	X	6% ad val.		25% ad val.
			Other:				
	182.92	00	Containing over 5.5 percent by weight of butterfat and not packaged for retail sale 1/	Lb.	17% ad val.	16% ad val.	20% ad val.
			Other:				
A	182.96	00	Wheat gluten	Lb.	8.5% ad val.	8% ad val.	20% ad val.
			Other:				
	183.00		Subject to quotas proclaimed pursuant to section 22 of the Agricultural Adjustment Act, as amended		10% ad val.		20% ad val.
		30	Provided for in item 950.16	Lb.			
		40	Provided for in item 950.19	Lb.			
		60	Provided for in item 950.23	Lb.			
A	183.01	00	Pancake flour and other flour mixes; refrigerated (including frozen) doughs	Lb.	10% ad val. 2/		20% ad val.
A	183.05		Other		10% ad val. 2/		20% ad val.
		05	Minced seafood preparations	Lb.			
		20	Other	Lb.			

1/ Imports of certain articles are subject to additional import restrictions. See items 950.22 and 950.23 in part 3, Appendix to the Tariff Schedules.

2/ Certain sugar derived from sugar cane or sugar beets subject to quota. See item 958.15 in part 3, Appendix to the Tariff Schedules.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 15. - Other Animal and Vegetable Products

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Subpart C. - Animal Feeds				
			Subpart C headnotes:				
			1. For the purposes of this subpart — (a) the term "animal feeds, and ingredients therefor" embraces products chiefly used as food for animals, or chiefly used as ingredients in such food, respectively, but such term does not include any product provided for in schedule 4 (except part 2E thereof) or schedule 5 (except part 1K thereof); and (b) the terms "mixed feeds" and "mixed-feed ingredients" in item 184.70 embrace products which are admixtures of grains (or products, including byproducts, obtained in milling grains) with molasses, oil cake, oil-cake meal, or other feedstuffs, and which consist of not less than 6 percent by weight of the said grains or grain products.				
			2. None of the provisions of this subpart cover fertilizer or fertilizer materials (see part 11 of schedule 4).				
	184.10	00	Bran, shorts, and middlings obtained in milling grains	S. ton	Free		10% ad val.
	184.20	00	Beet pulp, dried	S. ton	Free		$4.45 per short ton
	184.25	00	Brewers' and distillers' grains and malt sprouts	S. ton	Free		$4.45 per short ton
	184.30	00	Hay	S. ton	Free		$5 per short ton
	184.35	00	Straw (except flax straw and rice straw)	S. ton	Free		$1.50 per short ton
	184.40	00	Grain hulls, ground or not ground	Cwt	Free		10¢ per 100 lbs.
			Grain or seed screenings, scalpings, chaff, or scourings, ground or not ground:				
	184.45	00	Of flaxseed	S. ton	Free		10% ad val.
	184.47	00	Other	S. ton	Free		10% ad val.
			Soy bean and other vegetable oil cake and oil-cake meal:				
A	184.50	00	Linseed oil cake and oil-cake meal	Lb	0.12¢ per lb.		0.3¢ per lb.
A	184.51	00	Rapeseed oil cake and oil-cake meal	Lb	0.16¢ per lb.	0.12¢ per lb.	0.3¢ per lb.
			Other:				
	184.52	00	Soy bean and cottonseed oil cake and oil-cake meal	Lb	0.3¢ per lb.		0.3¢ per lb.
A	184.53	00	Other	Lb	0.3¢ per lb.		0.3¢ per lb.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Tankage; dead fish and whales; fish and whale scrap, meal and solubles; homogenized condensed fish and whales; all the foregoing not fit for human consumption:				
	184.54	00	Cod-liver solubles	Lb.	5% ad val.		20% ad val.
	184.55		Other		Free		Free
		10	Fish or whale meat in airtight containers	Lb.			
		20	Tankage	S. ton			
		30	Scrap and meal	S. ton			
		60	Other	S. ton			
A	184.58	00	Wheat gluten to be used as animal feed	Lb.	5.5% ad val.	4% ad val.	20% ad val.
			Animal feeds, and ingredients therefor, not specially provided for:				
			Meat, including meat offal, not fit for human consumption:				
			Raw, whether or not chilled or frozen:				
	184.60	00	Horsemeat (except meat packed in immediate containers weighing with their contents less than 10 pounds each)	Lb.	Free		Free
	184.61	00	Other	Lb.	Free		10% ad val.
A	184.65	00	Prepared or preserved	Lb.	2% ad val.		20% ad val.
	184.70		Byproducts obtained from the milling of grains, mixed feeds, and mixed-feed ingredients		Free		10% ad val.
		20	Pet food packaged for retail sale	Lb.			
		70	Other	S. ton			
			Other:				
	184.80	00	Animal feeds containing milk or milk derivatives 1/	Cwt.	7.5% ad val.		20% ad val.
	184.85	00	Other	Cwt.	3% ad val.		20% ad val.

Subpart D. - Feathers, Downs, Bristles, and Hair

Subpart D headnotes:

1. For the purposes of this subpart, the term "treated" means cleaned, disinfected, or treated for preservation.
2. (a) Except as provided in (b) and (c) of this headnote, the importation of the feathers or skin of any bird is hereby prohibited. Such prohibition shall apply to the feathers or skin of any bird —
   (i) whether raw or processed;
   (ii) whether the whole plumage or skin or any part of either;
   (iii) whether or not attached to a whole bird or any part thereof; and
   (iv) whether or not forming part of another article.

1/ See item 950.17 in part 3, Appendix to the Tariff Schedules.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

Item	Stat. Suf-fix	Articles	Units of Quantity	Quota Quantity
		Whenever, in any 12-month period, etc. (con.):		
950.18	1/	Ice cream, as provided for in item 118.25 of part 4, subpart D, schedule 1:		
		Belgium	1/	243,650 gallons
		New Zealand	1/	155,680 gallons
		Denmark	1/	3,450 gallons
		Netherlands	1/	27,600 gallons
		Jamaica	1/	950 gallons
		Other	1/	None
950.19	1/	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported; all the foregoing mixtures provided for in items 183.00 and 493.14, except articles within the scope of other import restrictions provided for in this part	1/	None
		Articles containing over 5.5 percent by weight of butterfat, the butterfat of which is commercially extractable, or which are capable of being used for any edible purpose (except articles provided for in subparts A, B, C or item 118.30, of part 4, schedule 1, and except articles which are not suitable for use as ingredients in the commercial production of edible articles):		
950.22	1/	Over 45 percent by weight of butterfat	1/	None
950.23	1/	Over 5.5 percent but not over 45 percent by weight of butterfat and classifiable for tariff purposes under item 182.92 or 183.00:		
		Australia	1/	2,240,000 pounds
		Belgium and Denmark (aggregate)	1/	340,000 pounds
		Other	1/	None
950.60		[Deleted, see headnote 3(c).]		

1/ See Appendix statistical headnote 2.

Item	Stat. Suffix	Articles	Units of Quantity	Quota Quantity (in pounds)		
		Whenever, in the respective 12-month period, etc. (con.):				
				See headnote 3(b) of this part		
				(A) Minimum Quota for certain comber waste	(B) Unreserved Quota	(C) Total Quota
955.05	1/	Card strips made from cotton having a staple length under 1-3/16 inches, and cotton comber waste, lap waste, sliver waste, and roving waste, all the foregoing, whether or not advanced, the product of any country or area including the United States, entered during the 12-month period beginning September 20 in any year:				
		United Kingdom	1/	2,882,305	1,441,152	4,323,457
		Canada	1/	None	239,690	239,690
		France	1/	151,613	75,807	227,420
		India and Pakistan (aggregate)	1/	None	69,627	69,627
		Netherlands	1/	45,493	22,747	68,240
		Switzerland	1/	29,592	14,796	44,388
		Belgium	1/	25,706	12,853	38,559
		Japan	1/	None	341,535	341,535
		China	1/	None	17,322	17,322
		Egypt	1/	None	8,135	8,135
		Cuba	1/	None	6,544	6,544
		Germany	1/	50,886	25,443	76,329
		Italy	1/	14,175	7,088	21,263
		Other, including the United States	1/	None	None	None
				Quota Quantity (in pounds)		
955.06	1/	Fibers of cotton processed but not spun, entered during the 12-month period beginning September 11 in any year	1/	1,000		

Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty (Section 22 fees)
		Sugars, sirups and molasses derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4(a):		
		Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:		
956.05	2/	Not to be further refined or improved in quality	2/	An amount determined and adjusted in accordance with headnote 4(c), but not in excess of 50% ad val.
956.15	2/	To be further refined or improved in quality	2/	An amount determined and adjusted in accordance with headnote 4(c), but not in excess of 50% ad val.
957.15	2/	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1	2/	An amount determined and adjusted in accordance with headnote 4(c) per pound of total sugars, but not in excess of 50% ad val.

1/ See Appendix statistical headnote 2.
2/ See Appendix statistical headnote 1.

APPENDIX TO THE TARIFF SCHEDULES
Part 3. - Additional Import Restrictions Proclaimed Pursuant to
Section 22 of the Agricultural Adjustment Act, as Amended

Item	Stat. Suf-fix	Articles	Units of Quantity	Quota Quantity
958.10	1/	Blended sirups provided for in TSUS item 155.75, containing sugars derived from sugar cane or sugar beets, capable of being further processed or mixed with similar or other ingredients and not prepared for marketing to the retail consumers in the identical form and package in which imported.....................	1/	None
958.15	1/	Articles containing over 65 percent by dry weight of sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, capable of being further processed or mixed with similar or other ingredients, and not prepared for marketing to the retail consumers in the identical form and package in which imported; all the foregoing articles provided for in TSUS items 155.75, 156.45, 183.01, and 183.05, except articles within the scope of other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States...	1/	None
		Whenever, in any 12-month period beginning October 1 in any year, the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:		
		Articles containing over 10 percent by dry weight of sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except (a) articles not principally of crystalline structure or not in dry amorphous form that are prepared for marketing to the retail consumer in the identical form and package in which imported, or (b) articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:		
958.16	1/	Provided for in TSUS item 156.45.............	1/	3,000 short tons
958.17	1/	Provided for in TSUS item 183.01.............	1/	7,000 short tons
958.18	1/	Provided for in TSUS item 183.05, except cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with those sugars; and minced seafood preparations within the scope of item 183.05 containing 20 percent or less by dry weight of those sugars....................	1/	84,000 short tons

1/ See Appendix statistical headnote 1.

APPENDIX F

U.S. CUSTOMS SERVICE RULINGS REGARDING SUGAR-CONTAINING PRODUCTS

TELEGRAPHIC MESSAGE

NAME OF AGENCY	PRECEDENCE	SECURITY CLASSIFICATION
OFFICE OF REGULATIONS AND RULINGS 1301 CONSTITUTION AVENUE WASHINGTON, D.C. 20229	ACTION: P INFO:	UNCLASSIFIED
ACCOUNTING CLASSIFICATION	DATE PREPARED 11/6/84	FILE 073292 553147 553168 553176
FOR INFORMATION CALL		
NAME LEE SELIGMAN TOM LOBRED	PHONE NUMBER 566-2938 566-8181	TYPE OF MESSAGE ☐ SINGLE ☐ BOOK ☐ MULTIPLE-ADDRESS

THIS SPACE FOR USE OF COMMUNICATION UNIT

MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters)

TO:

ALL REGIONAL COMMISSIONERS OF CUSTOMS
ALL DISTRICT/AREA DIRECTORS OF CUSTOMS
ALL PORT DIRECTORS OF CUSTOMS

HEADQUARTERS, UNITED STATES CUSTOMS SERVICE, IN CONSULTATION WITH FOREIGN AGRICULTURAL SERVICE (FAS), USDA, HAS ISSUED ONE (1) RULING AND ONE (1) INFORMATION LETTER REGARDING THE CLASSIFICATION AND RESULTANT QUOTA STATUS OF PURPORTED SUGAR (SUCROSE) "BLENDS."

PREVIOUSLY, SUCH "BLENDS," CONSISTING OF SUCROSE AND SOME DILUTANT (E.G., DEXTROSE, GLUCOSE, HIGH FRUCTOSE CORN SIRUP SOLIDS, CORN STARCH, FLOUR, ETC.) WERE CLASSIFIABLE OUTSIDE OF SCHEDULE 1, PART 10, SUBPART A, TSUS, USUALLY IN ITEM 183.05, TSUS, AND, THEREFORE, NOT SUBJECT TO THE QUOTA PROVISIONS (OR ADDITIONAL FEES, IF ANY) SET FORTH IN THE HEADNOTES TO THAT PART. IF CONTAINING 65 PERCENT OR LESS OF SUCROSE, SUCH "BLENDS" WERE NOT SUBJECT TO ABSOLUTE QUOTA RESTRAINT PURSUANT TO ITEM 958.15, TSUS.

PAGE NO.	NO. OF PGS.	SECURITY CLASSIFICATION
1	3	UNCLASSIFIED

OPERATIONS AT CERTAIN FOREIGN TRADE ZONES (FTZs) AND, TO A LESSER EXTENT, ENTRIES OF SUCH "BLENDS" ACROSS INTERNATIONAL BOUNDARIES INDICATE A CLEAR ATTEMPT TO CIRCUMVENT THE ABOVE-REFERENCED QUOTA PROVISIONS AND UNDERMINE THE DOMESTIC PRICE SUPPORT PROGRAM.

THEREFORE, HENCEFORTH, ALL ENTRIES OF SUCH PURPORTED SUCROSE "BLENDS" WILL BE CONSIDERED COMMINGLED MERCHANDISE, PURSUANT TO GENERAL HEAD-NOTE 7, TSUS, AND WILL BE EITHER: SEGREGATED INTO INDIVIDUAL COMPONENTS BY THE IMPORTER OR HIS CONSIGNEE, INDIVIDUALLY CLASSIFIED BY SUCH COMPONENTS, AND SUBJECTED TO APPLICABLE QUOTA RESTRAINTS AND PROCEDURES RELATING THERETO; DESTROYED UNDER CUSTOMS SUPERVISION; OR EXPORTED FROM THE CUSTOMS TERRITORY.

SUCROSE BLENDS WHICH POSSESS A VALID COMMERCIAL IDENTITY AND WHICH ARE ACTUALLY USED IN COMMERCE IN THE UNITED STATES, WHETHER AS CONSUMER PRODUCTS OR FOR FURTHER MANUFACTURING IN THE SAME FORM IN WHICH ENTERED, SHALL BE EXEMPT FROM TREATMENT AS COMMINGLED MERCHANDISE AND SHALL BE CLASSIFIED AS BEFORE.

IMPORTERS OR CONSIGNEES OF MERCHANDISE EXEMPTED FROM TREATMENT AS COMMINGLED BASED ON A FINDING OF COMMERCIAL IDENTITY/ACTUAL USE SHOULD BE MADE AWARE OF POSSIBLE PENALTIES EITHER BY REDELIVERY/PENALTY ACTION AND/OR UNDER THE PROVISIONS RELATING TO FRAUD. ENTRIES SHOULD NOT BE RELEASED FROM CUSTOMS CUSTODY UNTIL THE CONCERNED IMPORT SPECIALIST IS SATISFIED THAT THE CRITERIA FOR EXEMPTION HAVE BEEN MET, AT LEAST ON A PRIMA FACIE BASIS. ONCE RELEASED UNDER THESE CRITERIA, THE IMPORT SPECIALIST CONCERNED SHOULD AGGRESSIVELY FOLLOW UP ON EACH ENTRY TO INSURE VALIDITY OF IDENTITY AND ACTUAL USE.

QUESTIONS SHOULD BE DIRECTED TO HEADQUARTERS (EITHER LEE SELIGMAN, (202) 566-2938, OR TOM LOBRED, (202) 566-8181), FAS (JOHN NUTTALL, (202) 447-2141), AND/OR (WALT SPRINGER, NIS, (212) 466-5730).

COPIES OF THE ABOVE-REFERENCED LETTERS WILL BE FORWARDED AS SOON AS POSSIBLE.

Harvey B. Fox

HARVEY B. FOX
DIRECTOR, CLASSIFICATION
AND VALUE DIVISION

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

NOV 7 1984

REFER TO
CLA-2 CO:R:CV:V
073292 LCS

Dear

This is in reply to your letter of July 23, 1983, forwarded to us by our New York office, in which you requested information regarding the tariff status of sweetened ice tea mixes imported into the customs territory of the United States.

As a domestic manufacturer of such merchandise, under both your own label and the private labels of major supermarket chains, you are especially concerned over the appearance of competitive products from Canada which, because of the cost advantage of world-priced sugar over domestic, price-supported sugar, are being offered at prices far below your posted price schedules.

In response to the specific questions you raised, we offer the following responses:

1. Instant iced tea mixes, containing in excess of 90 percent cane or beet sugar (sucrose), instant tea, and/or other ingredients such as flavorings ((e.g., dry lemon concentrate), vitamins, stabilizers, and other sugars (e.g., glucose, maltose, etc.)), are and have for some time been classified under the provision for other edible preparations, not specially provided for (n.s.p.f.), in item 183.05, Tariff Schedules of the United States (TSUS), dutiable as products of Canada at the reduced column 1 rate of duty of 10 percent ad valorem. Treasury Decision (T.D.) 56059(40), C.I.E. 2346/63, December 5, 1963; T.D. 56551(30), C.I.E. 986/66, April 5, 1966; ORR Ruling 355-69, noted. Merchandise subject to classification in this item number, if a product of a beneficiary developing country (BDC) and otherwise meeting the requirements therefor, is entitled to duty-free entry pursuant to the Generalized System of Preferences (GSP).

   There are other lines of decisions, dealing with different merchandise, which - on initial examination - appear to contradict the rulings cited above as the basis for what appears to be a uniform and established practice of classification with regard to sweetened instant iced tea mixes. For example:

a. T.D. 56866(3), C.I.E. C240/68, March 28, 1968, held that cocktail mixes containing less than 50 percent sucrose were also classifiable in (now) item 183.05, TSUS, but that liquor mixes containing in excess of 75 percent sucrose were classifiable under the provision for flavored sugars, sirups, and molasses in item 155.75, TSUS;

b. ORR Ruling 36671, June 29, 1971, held that a product comprised of concentrated grape juice and in excess of 50 percent added sucrose was a flavored syrup, classifiable in item 155.75, TSUS;

c. Headquarters Ruling Letter 017681, May 4, 1972, held that a dry beverage mix, consisting of a minimum of 90 percent sucrose, with the remainder being evenly divided between sodium bicarbonate and tartaric acid, was classifiable in item 183.05, TSUS;

d. Headquarters Rulings: 036855 CM, April 22, 1975 (rescinding a previous ruling of that same control number issued on January 23, 1975); 039827 CM, June 27, 1975; and 045875 CM, September 3, 1976, involving mixtures containing 90 percent sucrose with cocoa powder, soya flour, and cocoa powder again, respectively, held that the "essential characteristic" of such mixtures was the sucrose component and, therefore, they were classifiable under the provision for cane or beet sugar in item 155.20, TSUS, subject to additional fees and quotas pursuant to section 22, Agricultural Adjustment Act;

e. Headquarters Ruling 037707 [CM], April 1, 1975, held that mixtures of sucrose and gelatin were classifiable in item 182.90, TSUS, if in chief value of gelatin, and in item 183.05, TSUS, if in chief value of sugar;

f. Headquarters Ruling 060910 RW, July 24, 1980, held that mixtures of sucrose and cocoa powder, without powdered milk, were classifiable in item 155.45, TSUS (sweetened cocoa), if containing a minimum of 35 percent cocoa powder; item 155.75, TSUS (flavored sugar), if containing more than 75 but not more than 90 percent sucrose; item 183.05, TSUS, if over 65 but not over 75 percent sucrose; or in item 155.20, TSUS, if in excess of 90 percent sucrose;

g. Headquarters Ruling 070285 LCS, September 27, 1982, held that a liquid mixture consisting of 95 percent medium invert sugar and 5 percent high fructose corn sirup (on a dry weight basis) was classifiable under the provision for blended sirups in item 155.75, TSUS, since this type of mixture possessed a well-recognized and accepted commercial identity; and

h. Headquarters Ruling 070659/070653 LCS, December 23, 1982, follows generally the above-enumerated rulings with regard to sucrose mixtures (155.20, TSUS, for a 90 percent sucrose, 8 percent dextrose, 1 percent citric acid, and 1 percent artificial flavorings dry drink base mixture and 183.05, TSUS, for an 85 percent sucrose, 15 percent corn sirup solids (glucose) dry fondant mix). Importantly, it also indicates that the so-called "90 percent rule," whereby the "essential characteristic" controls the ultimate classification, which usually will be as sucrose in item 155.20 or 155.30, TSUS, is applied only on a case-by-case basis and is contingent on the type and amount of flavoring used, its resultant effect on the mixture at issue (item 155.75, TSUS, as flavored sugars, sirups or molasses or, conceivably, even item 183.05, TSUS, depending on component ingredients), and any well-established and recognized commercial identity.

Subsequent to the issuance of Presidential Proclamation 5071 of June 28, 1983 (which, incidentally, Customs personnel assisted in drafting, together with personnel from the Foreign Agriculture Service, U.S. Department of Agriculture (FAS), and the International Trade Commission (ITC)), which established the presently effective quota provisions set forth in items 958.10 and 958.15, TSUS, we have issued several rulings which clarify the intent and scope of these quota provisions, continuing the process of classifying merchandise with substantial sucrose content in accordance with prior rulings on a case-by-case basis. In this regard, we note the following, which, although not exhaustive, indicates the nature of the problems involved and our approach thereto in carrying out our functions and responsibilities in classifying imported merchandise, as well as enforcing, on behalf of FAS, the applicable quota provisions:

a. Cake icing decorations, incorporating sucrose exceeding 90 percent on a dry weight basis, were initially held classifiable under the "essential characteristic" doctrine, in item 155.20, TSUS, subject to additional fees and quota restraints, if applicable. Headquarters

Ruling 069077 LCS, January 31, 1983. Upon reformulation, lowering the sucrose content to below 90 percent (but above 65 percent), we held them classifiable in item 183.05, TSUS (Headquarters Ruling 072480/072725 LCS, July [sic, June 29, 1984]) and, finally, Headquarters Ruling 072725/072480/069077 LCS, November 28, 1983, held that this merchandise was not within the intended scope of the absolute quota bar to importation set forth in item 958.15, TSUS, even though they are so classifiable, contain in excess of 65 percent sucrose and were bulk rather than retail packaged, since they were:

i. finished end products; and

ii. incapable (in a commercially feasible manner) of being either further processed or mixed with similar or other ingredients.

In this respect, with regard to such products, their use in the same form in which imported and retention of that form or identity in the ultimate end product in which incorporated is to be considered prima facie evidence of the commercial infeasibility and, therefore, incapability of either further processing or mixing as required by the quota provision. Furthermore, the mere reconstitution of a product by the addition of and mixing with water, the only "mixing" required to constitute a finished end product, is specifically excluded from the "commercially feasible" mixing criterion for inclusion within the quota provisions;

b. Similarly, the same criteria were applied to chocolate and/or rainbow sprinkles or "jimmies" in Headquarters Ruling 073002/073277 LCS, October 28, 1983; and

c. Both of the immediately preceding Headquarters rulings also set forth that the "retail-packaged exemption" from the quota restraint provisions in item 958.10 and 958.15, TSUS, is to be construed as an actual use provision, precluding the use of such packaging as a subterfuge to avoid otherwise applicable imposition of the quotas.

As we indicated above, although these representative rulings may appear to be somewhat contradictory, we believe they are not inconsistent, any seeming differences in treatment between various products being distinguishable, and reflect the criteria upon which classification and the resultant quota restraint status of particular merchandise, containing a relatively high percentage of cane or beet sugar (sucrose), are to be determined.

Furthermore, the drafters of the above-cited Presidential Proclamation took special cognizance of these criteria in identifying both the TSUS item numbers and the sugar (sucrose) percentages involved. The intent was to prohibit the entry of certain mixtures of cane or beet sugar with other ingredients, whether in sirup or dry form, which, beginning in October 1982 (Presidential Proclamation 4941 of May 5, 1982, established quotas on cane or beet sugar classified in items 155.20, and 155.30, TSUS), suddenly appeared in the marketplace and threatened to undermine the price-support program for domestically-produced sugar cane and beets. The identification of the particular item numbers to be made subject to the quotas, together with the percentages involved (i.e., over 65 percent insofar as nonsirup products (e.g., dry blend), no percentage requirement being desired or applicable to blended sirups in item 958.10, TSUS; however, certain other item numbers relating to dry blends containing between 25 and 65 percent cane or beet sugar were also considered by the ITC, although found not to be threatening at that time) was based on the Customs classification of the products then appearing in trade, as well as those which in the experience of the drafters could reasonably be projected as likely to be resorted to to circumvent the quota provisions.

Recognizing that no quota provision could be drafted which would (1) preclude all conceivable formulations and/or situations which sought to circumvent the restraints and/or (2) continue to permit the importation and entry of products with a high sugar level which were not interfering and did not threaten to interfere with the price support program because they were products with a well-established, well-accepted commercial identity for which there existed a traditional trade, the drafters established an informal consultative process by which these two problem areas could be identified, monitored and resolved within the scope of the quota language adopted and with the least possible disruption of trade, while still accomplishing the ban on the products undermining the price-support program.

Insofar as sweetened instant iced tea mixes, whether or not containing ingredients other than cane or beet sugar and tea (e.g., natural or artificial lemon flavor, mint, etc.), are concerned, they, as well as certain other products (e.g., jello-type gelatin mixes (classifiable in either items 182.90, TSUS, if in chief value of gelatin, or in 183.05, TSUS, if not), instant beverage mixes, consisting of sugar and flavoring and other ingredients, such as kool-aid type mixes, instant lemonades, etc.) have a well-established commercial identity of their own, apart and totally distinct from either flavored sugars or a product whose essential characteristic is sugar, together with a long history of importation and classification in item 183.05, TSUS, or elsewhere than in schedule 1, part 10, TSUS.

They are finished end products which are not capable for tariff classification purposes of either being further processed (e.g., the economically feasible removal of the sugar component) or mixed with similar or other ingredients (other than reconstitution or the addition of and mixing with water).

These particular commodities were not only within the contemplation of the drafters of these quota provisions, but were also specifically discussed as exemplars of the class or kind of products which were intended to be without the scope of the quota restaints established by items 958.10 and 958.15, TSUS.

Accordingly, pursuant to these criteria as set forth in the above-cited rulings, together with the intent of the drafters of the quota provisions in question, sweetened instant ice tea mixes, although containing in excess of 90 percent cane or beet sugars (sucrose), are classifiable in item 183.05, TSUS, and are exempt from the quota provisions set forth in items 958.10 and 958.15, TSUS, so long as they continue to meet the criteria, irrespective of whether or not they are retail packaged.

If you have a reasonable belief that the production and importation of this or similar merchandise is being accomplished as a deception, disguise, artifice, or sham intended solely to evade or improperly avoid the imposition of otherwise applicable quota restraint levels established by item 958.15, or other provisions of the TSUS, we believe there exists within the framework of the rulings cited, together with the rules of construction applicable to tariff laws and certain provisions of those laws, a methodology to preclude circumvention of the quota provisions.

Regarding the other questions posed in your inquiry, ideally, all U.S. Customs officers wherever located should apply tariff treatment, including classification and quota restaint status, consistently. We believe the systems in place for the exchange of information between these responsible officers and, in the situation of disagreement, for the resolution of such differences (e.g., consultations, "difference" procedures, internal advice requests, protest procedures, and ultimately, determination by the Federal court system) insures as much uniformity as is possible considering the broad expanse of the system, the numbers of individuals, commodities, and ports involved, and the complexity of the issues. Customs makes every effort to preclude the entry of products into the customs territory of the United States in violation of the laws, at least when we are aware of attempts to circumvent them. However, it is also a well-established tenet of customs law that an importer may fashion his product so as to take full advantage of the tariff provisions so long as there is no intent to perpetrate a fraud.

With specific regard to monitoring the level of importation of sweetened instant iced tea mixes, whether in bulk or in retail packages, at present there is none, at least from published official data. This is so because the item number in which the product is classifiable (i.e., item 183.05, TSUS) is a "basket provision," encompassing within its scope a multitude of products not provided for elsewhere in schedule 1, TSUS, by a more specific description. These products, therefore, are not reported separately, there being no specific statistical breakout applicable.

If, after your review of the information set forth herein, we can be of further help in explaining or elaborating on our position, please do not hesitate to inform us.

Sincerely,

Harvey B. Fox

Harvey B. Fox
Director, Classification
and Value Division

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

NOV 7 1984

REFER TO
CLA-2 CO:R:CV:V
553147 LCS

Dear

This is in reply to your inquiry of June 14, 1984, on behalf of and subsequent telephone conversations between yourself and Lee Seligman of my staff, concerning the tariff status of a product identified as a blend consisting of coffee, cane or beet sugar (not of Cuban origin), and dextrose. Our initial review of your inquiry led us to believe the coffee involved would be fully roasted, ground coffee; the subsequent telephone conversations, however, suggested that the "coffee" in question could be fully roasted beans, fully-roasted ground, partially roasted (to kill surface bacteria, pests, etc.) or, indeed, green or unroasted beans.

The blend's composition was stated as being 50 percent by dry weight of coffee (in whatever form is finally decided upon) and 50 percent refined cane or beet sugar (sucrose) - dextrose dry blend. The product as entered into the customs territory of the United States will be a product of the Bahamas and is intended to be used as an ingredient in the production of coffee-flavored ice cream. No breakdown of the proportions of sucrose-dextrose blend were provided other than the statement that the sucrose component would constitute less than 50 percent of the total weight of the product proposed for importation.

You request a binding ruling that the coffee-sweetener (sucrose-dextrose blend) blend is classifiable under the provision for other edible preparations, not specially provided for (nspf), in item 183.05, Tariff Schedules of the United States (TSUS), dutiable at the column 1 rate of duty of 10 percent ad valorem and, presumably although not stated, entitled to duty-free treatment pursuant to the Generalized System of Preferences (GSP) as a product of the Bahamas, if otherwise meeting the requirements therefor. Additionally, you requested our confirmation that the product at issue is exempt from the requirements of the International Coffee Agreement and free of quota restraint pursuant to item 958.15, TSUS.

We do not believe the "blended product" at issue is a recognized article of commerce with an accepted commercial or common identity or one with a traditional history of importation. Rather, what is proposed for importation and entry into the customs territory is "commingled merchandise" within the scope of General Headnote 7, TSUS, is segregable without excessive cost, and appears to have no commercial purpose other than the circumvention of the quota restraint levels and procedures applicable to both or either coffee and cane or beet sugar.

Accordingly, we believe the component ingredients are separately classifiable as follows:

1. Coffee, whether crude (green or partially roasted), roasted (fully), or ground in item 160.10, TSUS, entitled to duty-free treatment, if meeting the requirements of the International Coffee Organization;

2. The sugar (sucrose)-dextrose blend may be classifiable:

   a) under the provision for other edible preparations, nspf, in item 183.05, TSUS, subject to or exempt from the quota restraint provision set forth in item 958.15, TSUS, according to the percentage of the cane or beet sugar component present in the blend;

   b) as cane or beet sugar in item 155.20, TSUS, if the sucrose component is in excess of 90 percent of the total weight since that is its "essential characteristic"; or

   c) separately:

      i) cane or beet sugar in item 155.20, TSUS, subject to the quota restraint provisions set forth in headnote 3, schedule 1, part 10, subpart A, TSUS, and any applicable additional fees pursuant to the Agricultural Adjustment Act, as amended; and

      ii) dextrose in item 155.60, TSUS, dutiable at the column 1 rate of duty of 1.6 cents per pound and, as a product of the Bahamas, entitled under the GSP to duty-free treatment if otherwise qualified therefor.

We note that no quota allocation has been made for Bahamian cane or beet sugar, either specifically or under the "other specified countries and areas" allocation; accordingly, such entries are prohibited. With respect to the status of the coffee beans in whatever condition they will be upon importation, we suggest you contact our Duty Assessment Division regarding the status (member or nonmember under the ICTA) of the Bahamas and the requirements pertaining thereto.

Insofar as the classification of this or similar purported sucrose blends (i.e., cane or beet sugar blended with such ingredients as dextrose, glucose, cocoa, corn starch, soy flour, etc.) is concerned, Customs has reexamined its position and determined that there is no one commercial identity, if indeed any, applicable to such products. The Foreign Agricultural Service, U.S. Department of Agriculture and Headquarters, U.S. Customs Service, as well as the International Trade Commission, believe that the timing of the appearance and subsequent levels of importation of these "blended sucrose" products clearly indicates that the overriding purpose behind their creation is the circumvention of duties additional fees, and/or quota restraints otherwise applicable. Accordingly, these "blends" will be considered on a case-by-case basis and, absent the establishment of a viable commercial identity for each such "blended sucrose" product and compliance with all pertinent aspects of General Headnote 7, TSUS, and section 152.13, Customs Regulations, which would act to exempt such products from its application, Customs will treat such entries as commingled merchandise. Therefore, the sugar and the dextrose in the instant blend, unless exempted under the above-cited provisions, are to be segregated by the importer or his consignee and will be separately classified as appropriate, subject to whatever duties, additional fees, and/or quota restraints are determined applicable to each of the segregated or segregable component ingredients.

With regard to the instant blend, only the dextrose is assured entry (i.e., under the provision therefor in item 155.60, TSUS). The sucrose component may be permitted entry, if within the quota restraint level applicable to its country of origin, pursuant to item 155.20, TSUS, and headnote 3, schedule 1, part 10, subpart A, TSUS, together with any other requirements. We note that, if a product of the Bahamas, the sugar would be precluded entry, since there is no quota allocation applicable thereto.

All prior rulings involving the classification of sugar (sucrose) blends which are inconsistent with the holding herein are modified accordingly.

Sincerely,

Harvey B. Fox

Harvey B. Fox
Director, Classification
and Value Division

APPENDIX G

DATA AND METHOD USED TO ESTIMATE THE EFFECT OF INDIRECT IMPORTS OF SUGAR ON THE U.S. DOMESTIC PRICE OF SUGAR

Appendix

Growth rates of imports prior to the imposition of the quota were obtained from the data in table G-1. The sugar content of the items was estimated from data in table G-2.

The weighted average content of sugar was obtained from the following equation:

$$s_j = w_{1j}s_{1j} + w_{2j}s_{2j} + \dots + w_{nj}s_{nj}$$

where s_j is the percent sugar for category j, s_{ij} is the percent sugar for subcategory i in category j obtained from the questionnaire data, and w_{ij} is the percent of subcategory i in category j.

Estimates of the effect on price of the increase in sugar indirectly entering the United States were based on the relationship of supply and demand as illustrated in figure G-1. Imported and domestically produced sugar were assumed to be perfect substitutes, hence the curve, D_{TOTAL} is the domestic demand for sugar, regardless of its source. The total supply of sugar consists of domestic supply plus imports, which are fixed by the quota. Imports of sugar indirectly entering the United States, Q_i, effectively increase the total supply of sugar. Therefore, the actual supply of sugar is S_{TOTAL} and the observed market price of sugar is P. In the absence of indirect imports

of sugar, the total supply of sugar would be S'_{TOTAL}, resulting in a higher price of sugar, P'. Given estimates of the sugar indirectly entering the U.S. market, the effect on price can be estimated using the equation:

$$dP/P = dQ_i/(Q_s e_s + Q_d e_d)$$

when P is the domestic price of sugar, Q_i is the quantity of sugar indirectly imported, e_s is the elasticity of domestic supply and e_d is the elasticity of total demand for sugar, Q_s is the quantity supplied domestically and Q_d is the quantity consumed.

Table G-1.--Imports of certain articles containing sugar, 1976-80

Item	1976	1977	1978	1979	1980
	Quantity (1,000 pounds)				
Edible molasses	37,000	21,000	24,000	35,000	40,000
Sweetened cocoa	296	523	22	120	432
Confectioners' coatings	240	643	725	1,354	676
Candy and other confectionery	144,499	114,690	127,320	120,751	115,583
Gelatin	1/	1/	1/	1/	1/
Edible preparations containing over 5.5 percent butterfat	2,793	2,393	2,987	2,545	2,561
Pancake flour and other flour mixes 2/	1/	1/	13,839	12,065	17,400
Edible preparations, nspf 3/	52,559	62,888	63,251	63,342	68,195
	Value (1,000 dollars)				
Edible molasses	5,574	2,410	2,686	2,986	8,012
Sweetened cocoa	86	427	15	59	170
Confectioners' coatings	186	630	512	1,162	637
Candy and other confectionery	92,771	78,629	114,527	127,803	120,404
Gelatin	339	327	875	780	908
Edible preparations containing over 5.5 percent butterfat	1,290	961	1,503	1,318	1,520
Pancake flour and other flour mixes 2/	1/	1/	2,993	3,410	4,416
Edible preparations, nspf 3/	27,926	31,361	36,012	39,300	46,729

1/ Not available.

2/ Imports of pancake flour and other flour mixes were obtained from TSUS item 182.9870 in 1978 and 1979, and 183.0100 and 182.9970 in 1980.

3/ Imports of edible preparations, n.s.p.f., were obtained from TSUS item 182.9880 in 1976 and 1977, 182.9890 in 1978, 182.9888 in 1979, and 182.9988 and 183.0500 in 1980.

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

Table G-2.--Description and sugar content of certain articles containing sugar

TSUSA item	Description	Estimated sugar content	Imports 1984/85
		Percent	Millions of pounds
155.35	Molasses for human consumption or the commercial extraction of sugar 1/	0	41.0
156.45	Sweetened cocoa	64	22.0
156.47	Confectioners' coatings	50	11.5
157.10	Candy and other confectionery, nspf:		
157.1020	Not containing cocoa or chocolate	50-80	150.7
157.1040	Containing cocoa or chocolate	40	78.6
182.90	Edible preparations of gelatin	70-90	12.7
182.92	Edible preparations containing over 5.5 percent by weight butterfat and not packaged for retail sale	56-90	3.1
183.01	Pancake flour and other flour mixes including refrigerated doughs	20-40	19.4
183.05	Edible preparations, nspf:		
	Minced seafood preparations	5	20.0
	Ground coconut meat or juice mixed with sugar	50	17.0
	Cake decorations	75	2.0
	Powdered iced tea mixes, lemonade mixes, cocktail mixes, other beverage bases, and retail packed sugar/dextrose blends	95	40.0
	"White" chocolate, candy coatings, canned fruit (e.g., lemon, cherry, pumpkin) pie fillings, fruit spreads with added starch for use on bread or toast, hazelnut/chocolate bread spread, marzipans, whipped cream substitutes, dessert toppings, bulk sugar/dextrose blends	40-60	130.0
	Other, including frozen pizza pies, frozen incompletely baked biscuits, sandwiches, crackers/peanut butter, crackers/cheese, canned spaghetti, chile con carne, onion ring "chips", corn chips, egg rolls, quacamole salad, ramen (oriental soup mixes), and prefried cereal breading	1-10	182.3

1/ Does not contain sugar that can be extracted.

Source: Compiled from responses to questionnaires of the U.S. International Trade Commission.

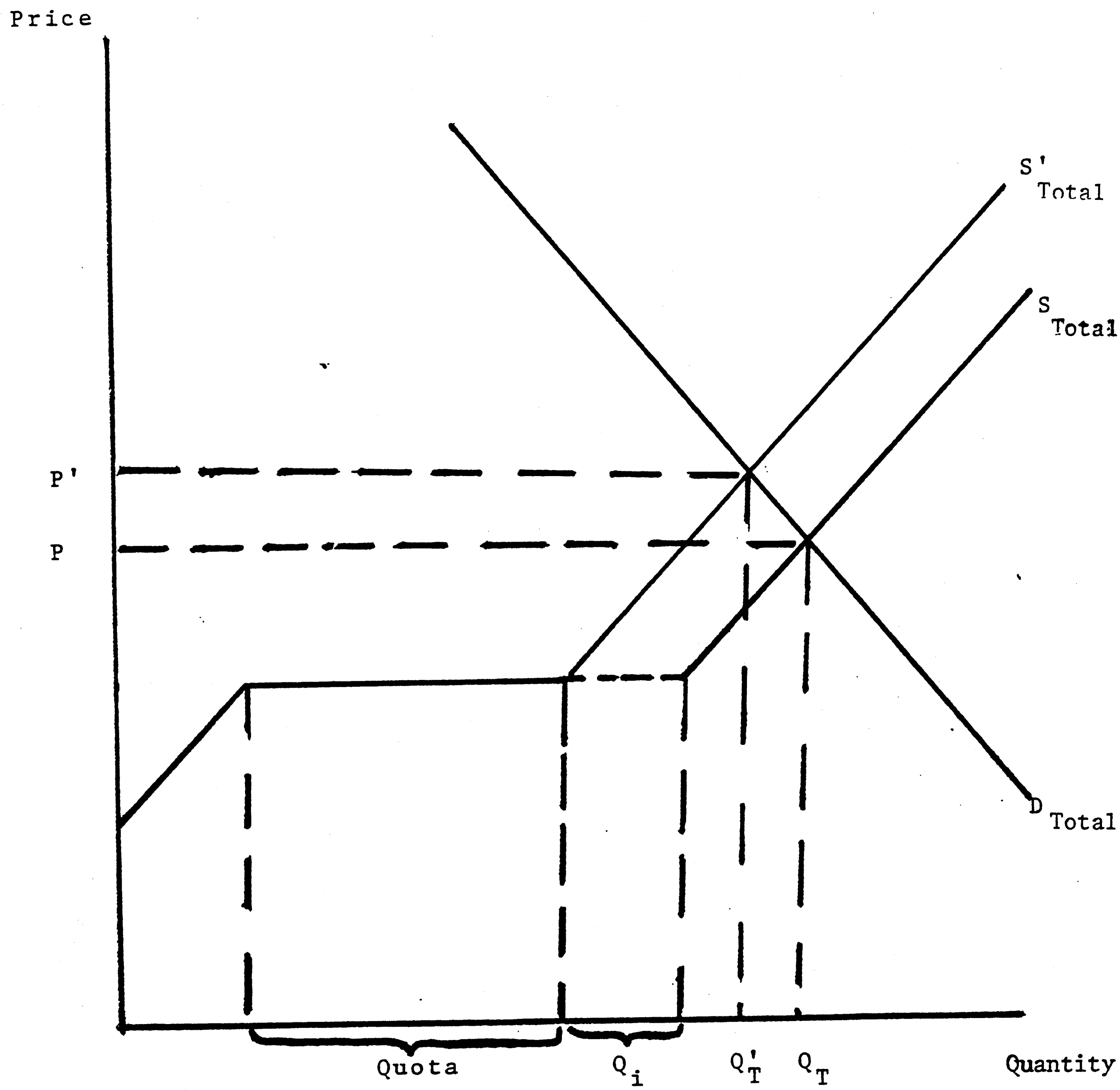

Figure: U.S. sugar market.

Estimates of the elasticity of total demand for sugar in the United States were fairly inelastic, ranging from roughly .05 to .35 in absolute value. 1/ Most estimates were around .1 to .15. Therefore, a moderate estimate of .15 was used. For the lower bound estimate, a demand elasticity of .30 was used.

Estimates of supply elasticities are difficult to obtain. Hence, assumptions about the supply elasticities were used. Assuming that sugar producers can respond very little to changes in price during a period of a year, a perfectly inelastic supply was used for the upper bound estimate. For the lower bound estimate, a higher supply elasticity of 0.5 was used.

1/ Michael Hammig, et. al., "The Effects of Shifts in Supply on the World Sugar Market," Agricultural Economics Research, January 1982, pp. 12-18; Gordon Gemmill, "Form of Function, Taste and the Demand for Sugar in Seventy-Three Nations," European Economic Review, March 1980, pp. 189-205; and Hoy F. Carman, "A Trend Projection of High Fructose Corn Syrup Substitution for Sugar," American Journal of Agricultural Economics, 1982, pp. 29-53.