Sugar From The European Union, and Sugar From Belgium, France, and Germany

Investigation No.104-TAA-7 (Second Review) and
Investigation Nos. AA1921-198-200 (Second Review)

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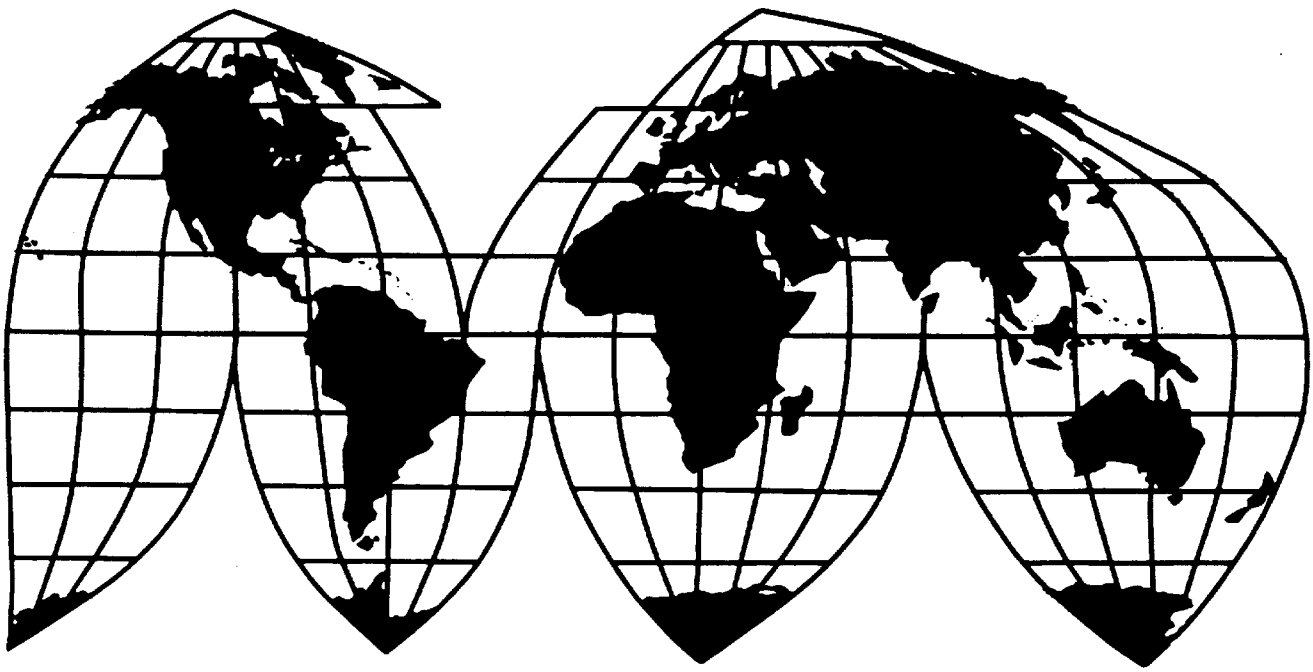
U.S. International Trade Commission



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U.S. International Trade Commission

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CONTENTS

CONTENTS–*Continued*

Page

CONTENTS–*Continued*

Page

Appendices

Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 104-TAA-7 (Second Review);
Investigation Nos. AA1921-198–200 (Second Review)

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

DETERMINATIONS

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

BACKGROUND

The Commission instituted these reviews on September 1, 2004 (69 FR 53466) and determined on December 6, 2004 that it would conduct full reviews (69 FR 75568, December 17, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on February 2, 2005 (70 FR 5480). The hearing was held in Washington, DC, on June 28, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Marcia E. Miller dissenting.

[3] Commissioner Marcia E. Miller dissenting.

VIEWS OF THE COMMISSION

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

I. BACKGROUND

In May 1979, the Commission unanimously determined that a regional industry, consisting of domestic producers of sugar cane and raw cane sugar located in the "Southeastern United States region" (*i.e.*, Florida and Georgia), was being injured by reason of less than fair value ("LTFV") imports of raw cane sugar from Belgium, France, and West Germany (Germany).[3] On June 13, 1979, the Department of Treasury ("Treasury") imposed an antidumping duty order on raw sugar from Belgium, France, and Germany.[4]

On July 31, 1978, Treasury imposed a countervailing duty order on imports of sugar from the European Community.[5] On March 28, 1980, the Commission received a request from the Delegation of the European Community (now the EU) for an investigation under section 104(b) of the Trade Agreements Act of 1979 of whether revocation of the countervailing duty order on sugar from the European Community would cause material injury or threat of material injury to a domestic industry. On May 6, 1982, the Commission determined, by a 3-3 vote, that an industry in the United States would be threatened with material injury if the countervailing duty order on sugar from the European Community were revoked.[6] Accordingly, the order remained in effect.

On September 15, 1999, the Commission determined that revocation of the countervailing duty order on sugar from the EU would likely lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission also determined that revocation of the antidumping duty orders on sugar from Belgium, France, and Germany would likely lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[7]

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[1] Commissioner Marcia E. Miller dissents from these determinations. See Dissenting Views of Commissioner Marcia E. Miller. She joins Sections I, III, and IV of these Views.

[2] The Final Comments filed by the domestic interested parties contained new factual information, see Memorandum INV-CC-125 (Aug. 10, 2005), contrary to the statute and our regulations. 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.30(b). We have disregarded the new factual information in the Final Comments.

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

[4] 44 Fed. Reg. 8949 (Feb. 12, 1979); see also 44 Fed. Reg. 29992 (May 23, 1979).

[5] 43 Fed. Reg. 33237 (July 31, 1978).

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

[7] See Sugar From the European Union; Sugar From Belgium, France, and Germany; and Sugar and Syrups from Canada, Inv. Nos. 104-TAA-7 (Review); AA1921-198-200 (Review); and 731-TA-3 (Review), USITC Pub. 3238 (Sept. 1999) ("First Review Determinations") at 1. Two Commissioners dissented from these determinations. Id. at

(continued...)

The Commission instituted the second reviews of the countervailing duty order on sugar from the EU, and the antidumping duty orders on sugar from Belgium, France, and Germany, on September 1, 2004.[8] In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines, with respect to each order or agreement, whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review.[9]

The only response to the notice of institution was filed collectively by the U.S. Beet Sugar Association, the American Sugarbeet Growers Association, the American Sugar Cane Refiners Association, the American Sugar Cane League, the Sugar Cane Growers Cooperative of Florida, the Florida Sugar Cane League, the Rio Grande Valley Sugar Growers, Inc., and Hawaiian sugar producers (the "domestic interested parties"). The Commission found the domestic interested party group response to the notice of institution for each review adequate, and the respondent interested party group response inadequate, but determined that a full review was warranted in light of changes in conditions of competition pertaining to both the domestic industry and the subject imports since issuance of the original orders.[10] No respondent interested party has made an appearance in these reviews, or otherwise provided any argument to the Commission.

II. SUMMARY[11]

As noted above, the Commission instituted these five-year reviews on September 1, 2004 and determined to conduct full reviews on December 6, 2004. Together, the responding domestic industry party group represents nearly 100 percent of the domestic industry, which is comprised of sugar beet growers, sugar cane growers, sugar beet processors, sugar cane millers, and sugar cane refiners. While sugar derived from beets is processed and refined in a continuous process at the same facility, sugar derived from cane generally is first milled to produce raw sugar and then refined at a separate facility, adding an additional step to the production process. Raw sugar, derived largely from cane, is the principal product form traded on world markets and makes up over 95 percent of U.S. sugar imports. The bulk of European sugar production and exports is comprised of refined sugar derived from sugar beets.

At the outset, we note that these reviews involve analysis of markets in both the United States and the EU that are subject to significant government intervention. The U.S. sugar program, largely

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[7] (...continued)
1 n.2, 3 (Commissioners Crawford and Askey dissenting); see also id. at 39 (dissenting views of Commissioners Crawford and Askey).

[8] 69 Fed. Reg. 53466 (Sept. 1, 2004).

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

[10] 69 Fed. Reg. 75568 (December 17, 2004); see also Confidential Report ("CR")/Public Report ("PR") at Appendix A, Explanation of Commission Determination on Adequacy in Sugar from the European Union; Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7, AA1921-198-200 (Second Review). Commissioner Marcia E. Miller and Commissioner Jennifer A. Hillman voted to conduct expedited reviews, based on the inadequate respondent interested party group responses.

[11] Commissioner Miller does not join this section.

administered under the 2002 Farm Act, involves non-recourse loans, marketing allotments, tariff-rate quotas ("TRQs"), and price-based safeguards. The EU sugar program, known as the Common Market Organization, consists of internal support prices, import restrictions, and export subsidies. These programs are important conditions of competition in these reviews.

In performing our analysis, we recognized that the EU was throughout the period of review and remains today the world's second largest producer and exporter of sugar. The various EU programs designed to support the European sugar industry have resulted in significant excess production in Europe and have created strong incentives to export nearly all of this excess production. Throughout the period of review, the EU exported over 4 million metric tons of sugar a year. In addition, in 2004, the EU expanded by taking in 10 new member states.

However, despite the significant volumes of sugar produced in the EU and the strong incentives created to export sugar that result from the EU's sugar program, the current U.S. restrictions on sugar imports, including the TRQ system and potential safeguard duties, will likely preclude any significant increase in subject import volume from the current minimal levels.

The United States has long had in place various programs to regulate domestic production, as well as the price and volume of imported sugar. The current U.S. sugar program limits the supply of domestically produced sugar through the use of marketing allotments and restricts imports of raw and refined sugar through the TRQ and price-based safeguards. Under the refined sugar TRQ, the quantity of sugar capable of being imported from the EU at the in-quota ("tier I") level was only 7,815 short tons in 2004, which represented 0.07 percent of domestic consumption. Tariffs on tier I refined sugar range from zero, which applies to countries such as Canada and Mexico that have preferential trading arrangements with the United States, to 1.66 cents per pound, which is the maximum rate that applies to sugar imported from the EU, among other sources. The potential volume of EU refined sugar exports to the United States is further restricted by the fact that tier I shipments enter on a first-come, first-served basis. Consequently, Canada and Mexico may utilize much of the limited tier I quota before filling the amount guaranteed to them under the North American Free Trade Agreement ("NAFTA").

Because of the limited volume of imports available to EU sugar producers at the tier I duty level, the U.S. sugar industry acknowledged that the principal focus of the Commission's inquiry should be on the potential for EU imports to enter the United States subject to the refined sugar over-quota ("tier II") duty rate of 16.21 cents per pound. We agree that our inquiry should focus on likely tier II imports. We find that it is not likely that the EU will export significant volumes of refined sugar to the United States were the orders to be revoked because: (1) at the end of the investigation period, EU sugar producers could have earned nearly 40 percent more by selling their sugar in the world market rather than the United States; (2) market observers anticipate stable to increasing world sugar prices in the foreseeable future; and (3) potential safeguard duties may further reduce the economic incentive for EU producers to serve the U.S. market. In addition, the current world price and greater profit incentive outside the U.S. market encourage EU exporters to continue shipping refined sugar to their traditional export markets rather than to the United States.

In light of the limited volume of EU sugar that would likely be exported to the U.S. in the absence of the orders, we find that price effects and the likely impact on the domestic industry would not be significant. We recognize that sugar is a fungible commodity that is price sensitive. As such, we recognize that additional volumes of sugar in the U.S. market, including sugar released through the "triggering off" of marketing allotments, would likely reduce prices for the domestic like product. However, we find that the insignificant volume of subject imports likely to enter the U.S. market in the absence of the orders would not significantly suppress or depress prices, or significantly undersell the domestic like product.

We find that the domestic industry is not vulnerable to material injury, given its performance over the POI.[12] Without significantly increased subject import volume or significant price effects, subject imports are unlikely to have a significant negative impact on the domestic industry were the orders to be revoked. Accordingly, as discussed in greater detail below, we find that revocation of the orders would not lead to continuation or reoccurrence of material injury to the U.S. industry within a reasonably foreseeable time.

III. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[13] The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[14] The Commission's practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.[15]

In these five-year reviews, the U.S. Department of Commerce ("Commerce") has defined the subject merchandise as follows:

For the antidumping duty orders on sugar from Belgium, France, and Germany: "shipments of sugar, both raw and refined, with the exception of specialty sugars."[16]

For the countervailing duty order on sugar from the European Union: sugar, with the exception of specialty sugars.[17] Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of the order.[18]

Although worded differently and involving different inclusions and exclusions of minor products, the bulk of the merchandise falling within the scope of all four of the orders under review consists of raw sugar and refined sugar. The sugar found in each of these products is chemically classified as sucrose.[19]

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[12] Vice Chairman Okun and Commissioner Hillman view the industry as vulnerable to material injury. See infra. note 192.

[13] 19 U.S.C. § 1677(4)(A).

[14] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[15] See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

[16] CR at I-13; PR at I-10 (quoting Sugar from Belgium, France, and Germany; Notice of Final Results of Expedited Sunset reviews of Antidumping Duty Findings, 70 Fed. Reg. 17231 (Apr. 5, 2005)). Excluded from the order are certain sugar pellets from France. See CR at I-13; PR at I-10; see also CR at I-13 n.27; PR at I-10 n.27.

[17] CR at I-13; PR at I-10 (citing Sugar from the European Community; Preliminary Results of Full Sunset Review of the Countervailing Duty Finding, 70 Fed. Reg. 15293 (Mar. 25, 2005)).

[18] CR at I-13; PR at I-10.

[19] Sucrose is a carbohydrate that naturally occurs in fruits and vegetables, but it is only found in quantities large enough for commercial extraction in sugar cane and sugar beets. CR at I-14; PR at I-11. Raw sugar, which is

(continued...)

The domestic interested parties support the Commission's definition of the domestic like product from the first five-year reviews as "raw and refined sugar, whether cane or beet," and urge its adoption in these five-year reviews.[20]

We find no new information on the record of these reviews that would warrant finding a different domestic like product definition than that found in the first reviews,[21] and the original countervailing duty investigation. The record of these reviews continues to support the Commission's conclusion from the first reviews that a semifinished product analysis supports the inclusion of raw and refined sugar in a single like product.[22] We therefore define the domestic like product in these reviews as "raw and refined sugar, whether cane or beet," consistent with the like product definition in the first five-year review determination, and the original countervailing duty determination.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[23]

In the first five-year reviews, the Commission found one national industry encompassing sugar cane and beet growers as well as cane millers, cane refiners, and beet processors, consistent with the

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[19] (...continued)
produced from sugar cane, consists of large sucrose crystals coated with molasses and is normally 90-99 percent pure sucrose. Id. Refined sugar may be made from raw (cane) sugar or directly from sugar beets and is generally about 99.9 percent pure sucrose. Id. Most refined sugar is sold as pure granulated or powdered sucrose. Substantial quantities also are sold as liquid sugar, which is sucrose dissolved in water, and in forms not chemically pure, such as brown sugar, invert sugar syrups, or as sugar blends containing glucose or fructose. CR at I-15; PR at I-11.

[20] See Prehearing Brief of the Domestic Sugar Industry, Five-year Reviews Concerning the Countervailing Duty Order on Sugar from the European Union and the Antidumping Duty Orders on Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7 (Review), and AA-1921-198-200 (Review) (June 17, 2005) ("Prehearing Br.") at 5.

[21] The Antidumping Act, 1921, did not contain a "like product" provision and the Commission did not make a like product determination *per se* in its original determinations concerning sugar from Belgium, France, and Germany. Instead, it stated that the "domestic industry" at issue consisted "of the facilities for the production of sugar cane and raw cane sugar in the Southeastern region of the United States." BFG Original Determinations, USITC Pub. 972 at 3. Except with respect to its adoption of a regional industry analysis, it did not elaborate as to the basis for this finding. Because the original antidumping determinations did not define a domestic like product, the Commission adopted in the first five-year reviews, for all four orders under review here, the like product definition from the original countervailing duty determination: "raw and refined sugar, whether cane or beet." First Review Determinations at 7. The Commission also found this like product definition consistent with its finding that a semifinished product analysis supported treating raw and refined sugar as a single domestic like product. Id. at 8.

[22] Raw sugar is dedicated to refined sugar production, and is unfit for human consumption, CR at I-14; PR at I-11; there is no evidence that producers or consumers perceive markets for raw sugar apart from sugar refineries, as raw sugar is sold only to refineries, id.; both raw and refined sugar consist of sucrose, with physical differences determined by the degree of processing, id.; and the value added through raw cane sugar refining appears modest relative to the value added through sugar cane milling. See CR at V-1; PR at V-1 ("Raw material costs made up over 70 percent of the cost of goods sold for processors/refiners during 2004.").

[23] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

domestic like product definition.[24] The Commission reasoned that the market for raw and refined sugar had evolved from a regional one at the time of the original investigations into a national one, warranting the definition of a single national domestic industry.[25] It also found that the grower-processor provision, section 771(4)(E) of the Act, 19 U.S.C. § 1677(4)(E), was satisfied, and included growers of sugar cane and sugar beets within its definition of the domestic industry.[26]

The domestic interested parties argue that the Commission should adopt its domestic industry definition from the first reviews: one national industry encompassing sugar cane and beet growers as well as cane millers, cane refiners, and beet processors, consistent with the domestic like product definition.[27] The record of these reviews contains no information that would lead us to reconsider the decision from the first reviews to treat the domestic industry on a national basis.[28]

The grounds for defining the domestic industry to include growers under 19 U.S.C. § 1677(4)(E) have only strengthened since the first reviews. There remains a continuous line of production from sugar cane growers to millers and refiners, and from beet growers to processors.[29] The coincidence of economic interest between growers on the one hand, and sugar millers, processors, and refiners on the other hand, has increased since the first reviews, with an increasing proportion of sugar milled, processed, and refined through cooperative arrangements.[30]

We therefore define the domestic industry in these reviews as one national industry encompassing sugar cane and beet growers as well as cane millers, cane refiners, and beet processors.

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[24] See First Review Determinations at 10-11.

[25] See First Review Determinations at 10-11. In the original determinations concerning Belgium, France, and Germany, the Commission found a regional industry consisting of cane sugar growers and millers located in Florida. BFG Original Determinations at 3-4.

[26] See First Review Determinations at 12-14. The Commission determined not to exclude two related parties, Domino Sugar and Western Sugar, then owned by Tate & Lyle of the United Kingdom, from the domestic industry. See id. at 14-15. There are no related party issues in these reviews.

[27] Prehearing Br. at 5.

[28] We find that the market for sugar remains a national one. The record indicates that refined sugar is typically shipped over substantial distances: U.S. processors and refiners report that 21 percent of U.S. sales occur within 100 miles of their storage or production facility, 59 percent were within distances of 101 to 1,000 miles, and 20 percent were at distances of over 1,000 miles. CR at V-1; PR at V-1; compare 19 U.S.C. § 1677(4)(c)(i) (regional industry analysis applicable only if, *inter alia*, producers in regional market sell "all or almost all" of their production within that market). The record also indicates that sugar prices are uniform across the United States. The USDA reports refined sugar retail prices for the entire United States market, though refined sugar wholesale prices consist of f.o.b. refined beet sugar prices for the Midwest market. CR at V-2; PR at V-1; CR/PR at Figure V-1.

[29] We find a continuous line of production because sugar cane and sugar beets are substantially devoted to raw and refined sugar production with no other commercially significant uses, see CR at I-14-15; PR at I-11-12, and raw and refined sugar is produced entirely from sugar beets and sugar cane. Id.

[30] According to the domestic interested parties, the proportion of raw sugar production produced by co-ops increased from 14 percent in 1999 to 57 percent in 2003, Prehearing Br. at 43, while the proportion of beet sugar production produced by co-ops increased from 65 percent in 1999 to 93.4 percent in 2004. Id. at 44.

IV. CUMULATION

A. Framework

Section 752(a) of the Act provides that:

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[31]

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. Also, the statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[32] We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[33] With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.[34]

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied, as Commerce initiated all the reviews on September 1, 2004.[35]

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.[36] Only a

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[31] 19 U.S.C. § 1675a(a)(7).

[32] 19 U.S.C. § 1675a(a)(7).

[33] SAA, H.R. Rep. No. 103-316, vol. I (1994).

[34] For a discussion of the analytical framework of Chairman Koplan and Commissioners Hillman and Miller regarding the application of the "no discernible adverse impact" provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan's analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

[35] Notice of Initiation of Five-year ("Sunset") Reviews, 69 Fed. Reg. 53408 (Sept. 1, 2004).

[36] The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the

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"reasonable overlap" of competition is required.[37] In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Because of the prospective nature of five-year reviews, the Commission also has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.[38]

B. Likelihood of No Discernible Adverse Impact

We find that revocation of any of the individual antidumping duty orders on sugar from Belgium, France, and Germany, would likely have a discernible adverse impact on the domestic industry.[39] Likewise, revocation of the countervailing duty order on sugar from the EU, would likely have a discernible adverse impact.[40] Each of these sources of subject imported sugar demonstrated the ability to export sugar to the United States over the POI, notwithstanding the orders.[41] Revocation of the orders would permit producers from each of these sources to compete with non-subject producers for the 7,815 short tons of the 47,399 short ton refined sugar TRQ not allocated to Canada and Mexico, and non-subject specialty sugars.[42] Sugar imported under the TRQ is subject to a relatively low specific tariff rate.[43] We find that absent the orders, low-priced subject imports from Belgium, France, Germany, and the EU, respectively, would likely increase under tier I of the TRQ. Even though the increase under tier I of the TRQ would be small, it would be sufficient to have a discernible adverse impact on the domestic industry.

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[36] (...continued)
imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

[37] See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[38] See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

[39] Commissioner Pearson finds that revocation of any of the individual antidumping duty orders on sugar from Belgium, France, and Germany would likely have no discernible adverse impact on the domestic industry. See Separate Views of Commissioner Daniel R. Pearson Concerning No Discernible Adverse Impact.

[40] Commissioner Pearson finds that revocation of the countervailing duty order on sugar from the EU would likely have no discernible adverse impact on the domestic industry. See Separate Views of Commissioner Daniel R. Pearson Concerning No Discernible Adverse Impact.

[41] See CR/PR at Table IV-3.

[42] CR at I-27-28; PR at I-20; CR/PR at Table I-4 (The refined sugar TRQ for fiscal year 2005 was set at 47,399 short tons, including 24,974 short tons reserved for non-subject specialty sugars, 11,354 short tons reserved for Canada, and 3,256 short tons reserved for Mexico.). The operation of the TRQ under the U.S. sugar program is detailed below in the discussion of conditions of competition.

[43] See CR at I-28; PR at I-21 (In quota, "tier I," refined sugar imports are subject to a specific tariff of 1.43 to 1.66 cents per pound depending on the polarity, or sucrose content, of the sugar.).

C. Likelihood of a Reasonable Overlap of Competition

Below we examine the four factors the Commission customarily considers in determining whether there likely will be a reasonable overlap of competition. We find a likely reasonable overlap of competition among subject imports from all sources and between these imports and the domestic like product if the orders were to be revoked.

In the first five-year reviews, the Commission exercised its discretion to cumulate subject imports from Belgium, France, Germany, and the EU, based on a reasonable overlap of competition.[44]

The domestic interested parties argue that the Commission should adopt its determination from the first review to assess cumulatively subject imports from Belgium, France, Germany, and the EU, because the statutory cumulation criteria remain satisfied:[45] the five-year reviews were initiated on the same day, September 1, 2004,[46] and sugar imports from Belgium, France, Germany, and the EU would likely compete with each other and the domestic like product were the antidumping and countervailing duty orders revoked.[47]

The record of these reviews indicates that refined sugar is a fungible commodity. All refined sugar is 99.9 percent pure sucrose,[48] and cane and beet sugars are indistinguishable.[49] Domestic producers, importers, and purchasers generally reported that refined sugar from Belgium, France, Germany, the EU, and the United States is frequently or always interchangeable.[50]

Commerce statistics indicate that subject imports from Belgium, France, and elsewhere in the EU were simultaneously present in the U.S. market throughout the POI, although imports from Germany were present in only nine of 24 quarters.[51] Commerce statistics also indicate that subject imports entered the U.S. market through 19 customs districts on the West and East coasts,[52] which would enable subject imports to serve the same geographic markets as domestic sugar throughout the United States.[53]

In the first five-year reviews, the Commission found that subject imports from Belgium, France, Germany, and elsewhere in the EU shared similar channels of distribution with each other and with domestic sugar.[54] There is no new information on the record of these reviews to suggest that these channels of distribution are any less likely today.[55]

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[44] First Review Determinations at 19.

[45] Prehearing Br. at 5-6.

[46] Prehearing Br. at 6 (citing 69 Fed. Reg. 53466).

[47] Prehearing Br. at 6. The domestic interested parties also maintain that mandatory cross-cumulation is applicable in this case. Id. (citing Softwood Lumber from Canada, Inv. Nos. 701-TA-928, 731-TA-928 (Final), USITC Pub. No. 3509 (May 2002) at 31). We do not reach the issue of whether the statute mandates cross-cumulation in five-year reviews because we have otherwise deemed such cross-cumulation appropriate here as an exercise of discretion under the facts of these reviews.

[48] See CR at I-14; PR at I-11.

[49] CR at I-15; PR at I-11.

[50] See CR at II-8-9; PR at II-5-6.

[51] CR at IV-9; PR at IV-8.

[52] CR at IV-9; PR at IV-8.

[53] See CR at II-2; PR at II-1.

[54] See First Review Determinations at 19.

[55] See CR at I-17; PR at I-13 (data on channels of distribution for subject imported sugar "unavailable"); see also CR at I-17 n.39; PR at I-13 n.39 ("The percentages of [domestic] sugar sales accounted for by these three channels of distribution in 2004 are virtually unchanged from 1998.").

We determine that there would likely be a reasonable overlap of competition between subject imports from each source and the domestic like product, as well as among subject imports from each source, were the orders revoked. We base this finding on the fungibility of refined sugar, the simultaneous presence and geographic overlap of subject imports from most sources and the domestic like product, and the existence of common channels of distribution – a reasonable overlap of competition that would likely continue in the event of revocation. That subject imports from Belgium, France, and Germany comprised 78 percent of subject imports from the EU in 2004 is further evidence of a likely reasonable overlap of competition between each of these countries and the EU.[56]

For all the foregoing reasons, we exercise our discretion to cumulate subject imports from Belgium, France, Germany, and the EU in these reviews.[57] [58]

V. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE COUNTERVAILING DUTY AND ANTIDUMPING DUTY ORDERS ARE REVOKED[59]

A. Legal Standard in a Five-year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[60] The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[61] Thus, the likelihood standard is prospective in nature.[62] The U.S. Court of International Trade has found that

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[56] CR at IV-4; PR at IV-1.

[57] We find no other factors on the record that significantly detract from our determination to cumulate subject imports from Belgium, France, Germany, and the EU. We henceforth refer to cumulated subject imports as "EU subject imports" or "subject imports," and cumulated subject producers as "EU producers," because Belgium, France, and Germany are members of the EU.

[58] Since Commissioner Pearson determines that subject imports are likely to have no discernible adverse impact on the domestic industry, he does not cumulate subject imports from Belgium, France, Germany, and the EU.

[59] Commissioner Miller does not join in the remainder of the majority's views. See Dissenting Views of Commissioner Marcia E. Miller.

[60] 19 U.S.C. § 1675a(a).

[61] SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

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

"likely," as used in the sunset review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[63] [64] [65] [66] [67] [68]

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[63] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[64] Chairman Koplan agrees with the Court that "'likely' means 'likely'..." Usinor Industeel, S.A. et al v. United States, No. 01-00006, Slip. Op. 02-39 at 13 (Ct. Int'l Trade April 29, 2002). Because Chairman Koplan also agrees that the term "likely" as used in the statute is not ambiguous, he does not believe that the Commission need supply a synonym for it. Nevertheless, were Chairman Koplan to select a synonym for "likely," he would accept the Court's conclusion that "likely" is best equated with "probable," and that it does not mean "possible." If some event is likely to happen, under common usage of the term, it probably will happen. If one considers the term "probably" to be tantamount to "more likely than not," then in the context of a sunset review such as this one, upon revocation of the respective orders either injury probably will continue or recur (more likely than not) or it probably will not continue or recur.

[65] Vice Chairman Okun and Commissioner Lane note that consistent with their dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, they do not concur with the U.S. Court of International Trade's interpretation of "likely" but will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See also Additional and Separate Views of Vice Chairman Deanna Tanner Okun and Commissioner Charlotte R. Lane Concerning the "Likely" Standard; Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Remand).

[66] Commissioner Hillman interprets the statute as setting out a standard of whether it is "more likely than not" that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of "probable" that the Court intended when the Court concluded that "likely" means "probable." See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term "Likely," in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

[67] While, for purposes of these reviews, Commissioner Pearson does not take a position on the correct interpretation of "likely," he notes that he would have made the same determination under any interpretation of "likely" other than equating "likely" with merely "possible." See Commissioner Pearson's dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

[68] We believe that the domestic interested parties' suggested construction of "likely" to mean "a reasonable likelihood" or "more than a mere possibility" may not be consistent with these CIT decisions. See Posthearing Submission of the U.S. Sugar Industry, Responses to Commissioner Questions, Five-year Reviews Concerning the Countervailing Duty Order on Sugar from the European Union and the Antidumping Duty Orders on Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7 (Review), and AA-1921-198-200 (Review) (July 7, 2005) ("Posthearing Responses") at 3 (responding to a question from Commissioner Pearson, Tr. at 70). See also Additional and Separate Views of Vice Chairman Deanna Tanner Okun and Commissioner Charlotte R. Lane

(continued...)

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[69] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis [in original investigations]."[70] [71]

Although the standard in a five-year review is not the same as the standard applied in an original antidumping or countervailing duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[72] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[73]

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[74] The following conditions of competition are relevant to our determination.

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[68] (...continued)
Concerning the "Likely" Standard.

Chairman Koplan and Commissioner Hillman do not find it necessary to express an opinion on the domestic interested parties' views on the likely standard.

[69] 19 U.S.C. § 1675a(a)(5).

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

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

[72] 19 U.S.C. § 1675a(a)(1).

[73] 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the orders under review. See CR at I-10; PR at I-8. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[74] 19 U.S.C. § 1675a(a)(4).

1. The U.S. Sugar Program

An important condition of competition is the U.S. Sugar Program, which consists of TRQs, price-based automatic safeguard duties, the non-recourse loan program, and marketing allotments.[75] Elements of the program were altered since the first five-year review through passage of the Farm Security and Rural Investment Act of 2002 ("2002 Farm Bill"). Programs established by the 2002 Farm Bill are effective through federal fiscal year 2007.[76]

Sugar produced in the EU is derived from sugar beets, which are processed and refined in a continuous process at the same facility. As such, any likely volumes of subject imports from the EU or Belgium, France and Germany would consist of refined sugar,[77] which enters under a separate TRQ (generally subject to a tariff of 1.43 to 1.66 cents per pound) allocated on a first-come, first-served basis.[78] In fiscal year 2005, all but 7,815 short tons of the 47,399 short ton refined sugar TRQ ("tier I" refined sugar imports) are allocated to Canada and Mexico, and non-subject specialty sugars.[79] Canada and Mexico also may export sugar under the 7,815 short tons allocated under the first-come, first-served portion of the TRQ before exporting sugar under their respective quota allocations thereby limiting the amount available to other countries. Over-quota ("tier II") refined sugar imports from all countries but Mexico are subject to a 16.21 cents per pound tariff.[80]

Safeguard duties, another component of the U.S. Sugar Program, are designed to be automatically imposed in addition to the TRQ tariffs if certain price-based "triggers" are met.[81] For refined sugar, the first trigger is set at 13.61 to 15.87 cents per pound, so that refined sugar imports with an entered value within that range automatically trigger a 1.41 cent per pound safeguard duty.[82] Lower entered values trigger incrementally higher safeguard duties.[83] [84]

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[75] See generally, CR at I-18-31; PR at I-13-21.

[76] CR at I-20; PR at I-14.

[77] See Hearing Transcript, In the Matter of: Sugar from the European Union, Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7 (Second Review), AA1921-198-200 (Second Review) (June 28, 2005) ("Tr.") at 63 (Roney) ("[T]he EU's exports are exclusively refined [sugar]... .").

[78] See CR at I-27; PR at I-20. The TRQ limits annual "tier I" raw sugar imports (subject to a tariff of 0.43 to 0.66 cents per pound) to 1.231 million short tons, which is the quantitative minimum established by the WTO Agreement. CR at I-24; PR at I-17-19; CR/PR at Tables I-4 and 5. Tier I imports are allocated across 40 countries on the basis of historic market shares. CR at IV-1; PR at IV-1. Over-quota, "tier II" raw sugar imports are subject to a 15.36 cents per pound tariff. CR at I-27; PR at I-18.

[79] CR at I-27-28; PR at I-20; CR/PR at Table I-4 (The refined sugar TRQ for fiscal year 2005 was set at 47,399 short tons, including 24,974 short tons reserved for non-subject speciality sugars, 11,354 short tons reserved for Canada, and 3,256 short tons reserved for Mexico.).

[80] CR at I-28; PR at I-20 (Mexico's tariff ranges from 3.10 to 4.80 cents per pound depending on the polarity (i.e., purity) of the sugar); CR/PR at Table I-5.

[81] See generally CR at I-29-31; PR at I-20-21.

[82] See CR at Table I-6; PR at Table I-6.

[83] See CR at Table I-6; PR at Table I-6. For example, refined sugar imports with an entered value of 13.61 cents per pound would yield a total duty of 17.62 cents per pound, which is calculated by adding the safeguard duty of 1.41 cents per pound with the over quota tariff of 16.21 cents per pound. Similarly, for refined sugar imports with an entered value of 9.07 cents per pound, the total duty would be 19.43 cents per pound, including the safeguard duty (3.22 cents per pound) and the over-quota tariff (16.21 cents per pound). Refined sugar imports with an entered value of 1.81 cents per pound would yield a total duty of 26.01 cents per pound, including the safeguard duty (9.80 cents per pound) and over-quota tariff (16.21 cents per pound). See Memorandum INV-CC-118 (Aug. 4, 2005) at

(continued...)

The USDA manages the other two components of the U.S. Sugar Program to control domestic sugar prices and supplies. The non-recourse loan program under the 2002 Farm Bill, which replaced the recourse and non-recourse loan programs in place at the time of the first five-year reviews, is designed to support sugar prices by offering nine-month loans at 22.9 cents per pound for beet processors and 18 cents per pound for producers of raw cane sugar, with sugar pledged as collateral.[85] When the loan becomes due, borrowers may either repay the loans with interest, if the market price of sugar exceeds the cost of the loan and marketing the sugar, or forfeit the associated sugar to the USDA's Commodity Credit Corporation ("CCC").[86] We note that several domestic producers reported having made sugar forfeitures totaling 800,350 short tons during the POI, with all but 40,000 short tons forfeited in 1999 and 2000.[87]

Supplies of domestic sugar are controlled by marketing allotments, which were reintroduced by the 2002 Farm Bill after a six year hiatus.[88] The USDA establishes the overall allotment quantity ("OAQ") to equal projected sugar demand minus sugar imports required under WTO and NAFTA commitments (1.532 million short tons), minus carry-over stocks from the previous year.[89] Any sugar produced beyond the marketing allotment cannot be sold for food in the United States, and must either be exported or stored at the producer's expense.[90] This inventory of stored sugar is referred to as "blocked stocks."

The 2002 Farm Bill suspends the USDA's ability to impose marketing allotments when imports for human consumption[91] exceed 1.532 million short tons over the course of a given year,[92] thereby releasing any blocked stocks onto the market. The USDA calculates that blocked stocks currently total approximately *** short tons.[93]

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[83] (...continued)
Staff Table 2.

[84] Chairman Koplan and Commissioner Lane observe that the Commission's assumption in the first five-year reviews that importers "would set the entered value of EU sugar at no less than 15.88 cents per pound, thereby avoiding any additional safeguard duties" (First Review Determinations at 34 n.191) conflicts with the record in these reviews. Non-Mexican, non-subject import volume did not increase significantly during the periods of the POI in which the gap between U.S. and world sugar prices exceeded the 16.21 cents per pound tier II duty, as addressed below. Compare CR/PR at Figure F-1 with CR/PR at Table IV-4.

[85] CR at I-21; PR at I-14; see also Prehearing Br. at 11-12.

[86] CR at I-21; PR at I-14; see also Prehearing Br. at 11-12.

[87] CR at I-21; PR at I-14-15.

[88] See CR at I-22; PR at I-16-17; see also Prehearing Br. at 13-14..

[89] CR at I-23; PR at I-16.

[90] CR at I-23 & n.51; PR at I-16 & n.51.

[91] The USDA does not count towards the trigger any sugar imported for processing and re-export, or sugar for use in polyhydric alcohols. CR at I-23 n.52; PR at I-16 n.52.

[92] Marketing allocations are not automatically triggered off when sugar imports exceed 1.532 million short tons; the increase over 1.532 million short tons must be such that the USDA would have to reduce the overall allotment quantity to maintain market prices above the loan level. See CR at I-23; PR at I-16. Thus, sugar demand in excess of USDA projections could permit a corresponding increase in sugar imports without market allocations being triggered off. See Tr. at 18 (Roney) ("Congress essentially was sending a message that...[i]mports could grow if U.S. consumption growth outstrips U.S. production growth or if there is a crop shortfall... .").

[93] Telephone interview by *** with *** (Aug. 5, 2005); see also Prehearing Br. at 14 (blocked stocks are "about 506,000 short tons"); Posthearing Responses at 10 (responding to questions from Vice Chairman Okun, Tr. at 161-162, and Commissioner Hillman, Tr. at 95-97) (blocked stocks are "approximately 500,000 tons"); Tr. at 17, 83 (Roney).

2. The EU Sugar Program

EU sugar production is managed through a combination of production quotas and guaranteed prices under the Common Agricultural Policy ("CAP") administered by the Common Market Organization ("CMO"), which has changed little since its establishment in 1968.[94] The EU sets the "A" sugar production quota at projected EU sugar consumption for the coming year, and the "B" sugar quota at 10 to 35 percent of the "A" quota.[95] Minimum "intervention prices" are established each year as a guaranteed price floor for "A" and "B" sugar.[96] Producers generally must export the difference between their A and B production quotas and actual EU consumption each year, receiving "export restitution" payments for the difference between intervention prices and world prices.[97] Under the EU's WTO commitments, EU exports of subsidized sugar are limited to 1.404 million short tons per year.[98] However, the EU exported substantially more than this amount during each year of the POI because it did not regard its exports of C sugar as subsidized or subject to the 1.404 million short tons cap.

Sugar produced in excess of the A and B quotas is deemed C sugar, which must be exported without the benefit of direct subsidies.[99] In April 2005, the WTO Appellate Body held that the high prices guaranteed for A and B sugar act as a cross-subsidy for exports of C sugar, within the meaning of the WTO Agreement on Agriculture.[100] The EU and the complainant WTO Members are to agree upon a manner of implementing the WTO Dispute Settlement Body's recommendations and rulings by June 2006.[101]

The European Commission ("EC") proposed reforms to the EU Sugar Program on June 22, 2005 that would, inter alia, reduce the institutional support price for sugar by 39 percent over a two year period beginning with implementation of the reforms in the 2006/2007 marketing year.[102] The EC aims to have the Council of Ministers agree to the reforms by November 2005.[103] The EU's current sugar program is authorized through 2006.[104] However, the Commission based its decision in these reviews on the current sugar program, choosing not to assume that these reforms would be implemented.

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[94] CR at IV-10; PR at IV-8.

[95] See Prehearing Br. at 23; see also CR at IV-11; PR at IV-10 (2004 B quota set at 18 percent of the A quota).

[96] CR/PR at Table IV-5 (The intervention price for raw sugar is $573.92 per short ton, or 28.7 cents per pound; the intervention price for refined sugar is $692.49 per short ton, or 34.6 cents per pound; the minimum price for A-quota sugar beets is $51.20 per short ton; and the minimum price for B-quota sugar beets is $35.53 per short ton); see also Prehearing Br. at 23.

[97] See Memorandum INV-CC-117 (Aug. 4, 2005); PR at IV-25-27. Export restitution payments are financed through levies on EU sugar producers based upon their A- and B-quota sugar production. Id.

[98] CR at IV-13-14; PR at IV-11.

[99] CR at IV-13; PR at IV-11. The domestic interested parties maintain that C sugar may also be disposed of in the EU market with the payment of a penalty. Prehearing Br. at 24.

[100] CR at IV-14; PR at IV-12; see also Prehearing Br. at 27 (citing Appellate Body Report on European Communities – Export Subsidies on Sugar, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R, adopted 19 May 2005).

[101] CR at IV-14 n.15; PR at IV-12 n.15.

[102] See CR at IV-14-15; PR at IV-12-13.

[103] CR at IV-15; PR at IV-12.

[104] CR at IV-15; PR at IV-13.

3. Domestic Industry Consolidation and Restructuring

Domestic sugar industry consolidation and restructuring during the POI is another important condition of competition.[105] Since 1999, 22 of the "highest cost" sugar mills and refineries have been shuttered.[106] Domestic sugar capacity declined by seven percent from 1999 to 2004.[107] The labor productivity of sugar refiners and processors increased from 0.40 short tons per hour in 1999 to 0.52 short tons per hour in 2004.[108] Industry restructuring over the POI also is reflected in the increasing share of raw and refined sugar produced through cooperative arrangements ("co-ops").[109] According to the domestic interested parties, the proportion of raw cane sugar milled by co-ops increased from 14 percent in 1999 to 57 percent in 2003, and the proportion of refined beet sugar processed by co-ops increased from 65 percent in 1999 to 93.4 percent in 2004.[110]

4. U.S. Trade Agreements Relating to Non-Subject Imports

Certain U.S. obligations under the NAFTA and the U.S.-Dominican Republic-Central America Free Trade Agreement ("DR-CAFTA"),[111] relate to non-subject imports. NAFTA permits duty-free sugar imports from Mexico of up to 275,578 short tons per year, subject to the requirement that only production in excess of consumption may be exported.[112] In addition, NAFTA dictates that the current 4.53 cent per pound tariff on tier II (over-quota) Mexican sugar imports will decline to 3.02 cents in 2006,[113] and to zero in 2008.[114] DR-CAFTA increases the TRQ for sugar imports from the five Central American parties and the Dominican Republic by 120,152 short tons immediately, by 168,808 short tons after 15 years, and by 2,910 short tons each year thereafter.[115]

The domestic interested parties argued that the Commission should consider the possible outcome of pending trade negotiations, such as the Free Trade Area of the Americas and other free trade agreement negotiations.[116] The domestic interested parties claim that such negotiations involve countries whose

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[105] The domestic interested parties contend that "the U.S. industry that appears before [the Commission] in this proceeding are the survivors of an enormous shakeout, consolidation, and integration of the U.S. sugar industry over the 6 years since the last review." Posthearing Brief of the Domestic Sugar Industry, Five-year Reviews Concerning the Countervailing Duty Order on Sugar from the European Union and the Antidumping Duty Orders on Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7 (Review), and AA-1921-198-200 (Review) (July 7, 2005) ("Posthearing Br") at 11.

[106] See Prehearing Br. at 42.

[107] CR at III-6; PR at III-4; CR/PR at Table III-3 (capacity declined another three percent between interim 2004 and interim 2005); see also Prehearing Br. at 42.

[108] CR/PR at Table III-6.

[109] See CR at I-34-38; PR at I-25-28.

[110] Prehearing Br. at 43-44.

[111] President Bush signed DR-CAFTA into law on August 2, 2005.

[112] See CR at IV-29, 33; PR at IV-27; CR/PR at Table IV-15.

[113] Prehearing Br. at 19; see also CR at I-28; PR at I-20.

[114] CR at IV-33; PR at IV-27.

[115] CR/PR at Table IV-15.

[116] See, e.g., Prehearing Br. at 17-20 (also claiming that the NAFTA side letter definition of Mexican sugar eligible for importation under the TRQ "could be revised upward"); Posthearing Responses at 62-63 (responding to a question from Commissioner Pearson, Tr. at 151-152) (asserting that it is a "virtual certainty" that the Doha Round (continued...)

sugar production totals over 53 million short tons, and whose sugar exports total 37 million short tons.[117] We decline to speculate on the outcome of pending trade negotiations. We do not believe that the results of these negotiations are reasonably foreseeable.

5. U.S. Demand

U.S. sugar demand fluctuated within a narrow band over the POI, ending the POI at about the same level as at the beginning of the POI. U.S. apparent consumption declined by two percent between 1999 and 2004,[118] as population growth largely compensated for declining per capita sugar consumption.[119] Just over half of the processors/refiners and purchasers responding to the Commission's questionnaires reported flat or increasing sugar demand over the POI.[120] Notwithstanding this slight decline in demand, the domestic industry's share of U.S. apparent consumption increased from 84.1 percent in 1999 to 85.3 percent in 2004.[121]

The USDA projects that U.S. sugar demand will increase by 159,000 short tons in 2005, or 1.6 percent, and 95,000 short tons in 2006, or 0.95 percent.[122] Domestic interested party witnesses at the hearing testified that they anticipate demand growth of one to two percent.[123]

We find that these conditions of competition in the sugar market provide us with a reasonable basis on which to assess the effects of revocation of the orders.

C. Likely Volume of Subject Imports[124]

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume

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[116] (...continued)
of trade negotiations will successfully conclude in the reasonably foreseeable future with an agreement to cut tier II sugar tariffs by up to 30 to 50 percent).

[117] Prehearing Br. at 18.

[118] CR at II-5; PR at II-3; CR/PR at Table C-1 (compiled from responses to Commission questionnaires and official Commerce statistics) (apparent consumption declined from 11.512 million short tons in 1999 to 11.261 million short tons in 2004); see also CR at I-45; PR at I-34; CR/PR at Table I-12 (based upon statistics from the USDA's Sugar and Sweetener Yearbook) (total shipments declined from 10.066 million short tons in 1999 to 9.861 million short tons in 2004, or two percent).

[119] See CR/PR at Table II-2.

[120] CR at II-5; PR at II-3 (Of 12 responding processors/refiners: four reported increasing demand, six reported declining demand, and two reported flat demand. Of 22 responding purchasers: seven reported increasing demand, nine reported declining demand, and six reported flat demand.).

[121] CR/PR at Table C-1. The domestic industry's market share in 1981, the last year of the original investigation's period of investigation, was 51.1 percent. CR/PR at Table I-1.

[122] CR/PR at Table I-12; see also Posthearing Responses at 24 (responding to questions from Commissioner Pearson, Tr. at 11, 107-110) (increasing demand due to the diminution of low carb dieting and stronger economic growth).

[123] See Tr. at 85 (Doxsie) (anticipating demand growth of "one percent-ish or a very low number like that"), 86 (Roney) ("The U.S. Department of Agriculture is predicting this year a turnaround in sugar consumption of 1 or 2 percent and we're hoping that's a path we can stay on.").

[124] Commissioner Pearson joins the majority's views concerning the likely volume of subject imports, except as noted. Commissioner Pearson notes that the likely volume of subject imports from Belgium, France, and Germany, respectively, would necessarily be less than the likely volume of subject imports from the EU.

of imports would be significant either in absolute terms or relative to production or consumption in the United States.[125] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[126]

In the original determination concerning Belgium, France, and Germany, the Commission found that subject imports of raw sugar represented 9 percent of the sugar refined in the Southeastern region and that these imports had taken sales from domestic cane millers, resulting in forfeiture of about 40 percent of the 1977/78 crop to the CCC.[127] In the original determination concerning the European Community, the Commission found that the EC had over 5 million short tons of sugar available for export from the 1981/82 crop, an amount which almost equaled total U.S. imports for 1981. It reasoned that, because the United States was the world's second largest importer of sugar, the EC would target the United States market if the existing countervailing duty order were revoked.[128]

In the first five-year reviews, the Commission concluded that subject import volume would likely reach significant levels within a reasonably foreseeable time were the orders to be revoked, notwithstanding "virtually non-existent" subject imports over the POI, for two reasons.[129] First, the Commission found that EU sugar exports, including surplus "C" sugar that must be exported, had increased significantly since the original investigation, to a level equal to 73 percent of U.S. apparent consumption.[130] Second, the Commission found that the gap between world and U.S. sugar prices had widened since 1998 to over the 16.69 cents per pound tier II duty then in effect, such that EU producers would have had an economic incentive to increase exports to the United States in the absence of the orders.[131] Even after paying the tier II duty, EU producers could have obtained 20 percent more for their sugar in the U.S. market than on the world market.[132]

Based on the conditions prevailing over the POI of these reviews, we find that no significant increase in subject import volume is likely were the orders to be revoked. Subject imports during the POI have not deviated from the virtually non-existent levels observed during the first reviews.[133] The volume of subject imports possible under tier I of the TRQ is 7,815 short tons, or 0.07 percent of U.S. apparent consumption in CY2004. The volume of subject imports under tier I is likely to be less than this amount, given that non-subject imports would compete for the same quota on a first-come, first-served basis, and any tier I imports from Canada and Mexico would pay no duties, while tier I EU sugar would be assessed duties in the range of 1.43 to 1.66 cents per pound. Although we found above that the likely increase in tier I imports from the EU was sufficient to cause a discernible adverse impact, we cannot conclude that

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[125] 19 U.S.C. § 1675a(a)(2).

[126] 19 U.S.C. § 1675a(a)(2)(A-D).

[127] BFG Original Determinations at 4-5.

[128] EU Original Determination at 8-9.

[129] First Review Determinations at 33-55.

[130] First Review Determinations at 33-34.

[131] First Review Determinations at 34-35.

[132] First Review Determinations at 34-35.

[133] CR/PR at Table IV-3.

this likely increase would be significant.[134] Not only is any likely increase in tier I imports small in both absolute and relative terms, but its significance is further diminished by the fact that an increase in tier I imports from the EU would merely decrease the amount of tier I sugar that could be imported from other sources.

As in the first reviews, EU producers would have no economic incentive to export sugar to the United States under tier II of the TRQ unless the differential between the world sugar price and the U.S. sugar price were greater than the tier II tariff of 16.21 cents, plus any applicable safeguard duties, such that EU producers would realize equal or greater financial returns on U.S. sugar sales than on sales at the world price.[135] This restriction is not unique to the EU. To the contrary, as discussed above, the substantial tier II tariff is applicable to imports from all countries other than Mexico. Tier II imports from all sources other than Mexico accounted for a very small proportion of total imports during the POI.[136] We do not believe that a price differential that would make tier II imports from the EU to the United States attractive is likely, given trends in U.S. and world sugar prices during the POI.[137]

There is currently no economic incentive for EU producers to export sugar to the U.S. market.[138] In the second quarter of 2005, EU producers could have sold sugar at the world price of 12 cents per pound,[139] or into the U.S. market at 8.59 cents per pound – the U.S. sugar price of 24.8 cents per pound minus the tier II tariff of 16.21 cents per pound.[140] At a minimum, EU producers would have commanded 3.41 cents per pound (39.7 percent) more for their sugar exports at the world price than at the price

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[134] Commissioner Pearson finds that the likely increase in tier I imports from the EU would not be sufficient to cause a discernible adverse impact.

[135] The domestic interested parties agree that EU producers would have no economic incentive to export sugar to the U.S. market unless the gap between the U.S. sugar price and the world sugar price were to become greater than the tier II tariff of 16.21 cents. See Posthearing Br. at 7 ("Favorable conditions amounting to an incentive to ship to the U.S. can be said to exist in instances whenever the gap between the world price plus the TRQ Tier 2 tariff and U.S. price for refined sugar narrows such that the Tier 2 tariff no longer limits the likely return from U.S. sales in comparison with sales to other world markets."); see also Tr. at 65 (Roney) ("[W]e have no restrictions on the quantities of sugar that can come in above quota by paying the second tier tariff...you do have years when the world price can dip so low that even the second tier tariff that we have in place, which is 15.5 cents per pound [sic], may not be adequate to defend our market."), 90-91("At the time of your prior decision, you did a very careful and thoughtful analysis of the relative opportunities and correctly focused on the incentive that existed at that time.").

[136] CR/PR at Tables IV-3-4.

[137] This contrasts from the conclusion the Commission reached in the first reviews for two primary reasons. First, the U.S. sugar program has changed since 1999, as explained above. In particular, the 2002 Farm Bill reactivated marketing allotments, which permit the USDA to control domestic sugar supplies. See CR-I-22-24; PR at I-16-17. Second, the likely trends in U.S. and world sugar prices today are different than they were in 1999, as explained below.

[138] See CR/PR at Table F-1 and Figure F-1; see also Posthearing Br. at 9; Tr. at 72 (Manning) ("Our position is right now, given the information that you have, there is no incentive at this point to bring in sugar."), 76 (Clark) ("It is certainly correct as we just had the dialogue that the TRQ today, at the exact price point we have today, does act as a limitation... .").

[139] CR/PR at Table V-2. According to the USDA, about two-thirds of all world sugar exports in 2004 were traded at the "world price," including exports from the EU-15. CR at V-6 n.4; PR at V-4 n.4.

[140] CR/PR at Table V-2. EU producers would have received only 4.24 cents per pound for their sugar in the U.S. market given the automatic imposition of a 4.35 cent per pound safeguard duty on sugar imports with an entered value of 8.59 cents per pound. CR/PR at Table I-6.

available in the U.S. market at the end of the POI[141] – a reversal of the 1.5 cents per pound (17 percent) premium available to EU producers in the U.S. market at the end of the POI in the first reviews.[142]

World sugar prices increased 36.4 percent between the fourth quarter of 2003 and the second quarter of 2005, to 55.6 percent above their low during the POI, in the fourth quarter of 1999.[143] Strengthening world sugar prices have resulted from a confluence of factors, including a drought in Thailand in 2004 and 2005, which reduced production and exports,[144] a concurrent drought in India, which reduced production and increased imports,[145] a decline in Cuban sugar production in 2004,[146] strong demand for sugar in Asia, particularly Indonesia,[147] declining Brazilian sugar stocks,[148] and increased consumption of sugar in ethanol production, spurred by high gasoline prices.[149]

USDA data indicate that U.S. refined sugar prices remained virtually flat between 2003 and the second quarter of 2005,[150] and were 8.5 percent lower in the second quarter of 2005 than in the first quarter of 1999.[151] Pricing data collected through the Commission's questionnaires indicate that prices for all three pricing products fluctuated over the POI with "no clear trend for the entire period," but with price trends flattening out after 2002.[152]

We find it unlikely that these trends in U.S. and world prices over the POI will change sufficiently in the reasonably foreseeable future to provide EU producers with an economic incentive to

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[141] CR/PR at Table V-2.

[142] See First Review Determinations at 34 ("[T]aking into account tier II duties, the U.S. price presently exceeds the world price by about 1.5 cents/pound (about 17 percent)...This incentive will increase next year, when the tier II duty rate declines from 16.69 to 16.2 cents/pound...the net return that EU producers could obtain for their refined sugar in the United States (with a tier II duty of 16.2 cents/pound) is more than 20 percent higher than they could obtain selling at the world price... .").

[143] See CR/PR at Table V-2 (world sugar price hit a low during the POI of 7.7 cents per pound in the fourth quarter of 1999 and first quarter of 2000, but increased from 8.8 cents per pound in the fourth quarter of 2003 to a high during the POI of 12.0 cents per pound in the second quarter of 2005); see also Posthearing Br. at Exh. 6.

[144] CR at V-8; PR at V-4.

[145] CR at V-8; PR at V-4; see also The Czarnikow Sugar Review (June 15, 2005) at 71, attached to Posthearing Br. at Exh.1 ("Though some Indian sources were adamant that the country would only import around 2m tonnes of sugar, the view generally held by the sugar trade was that imports would range between 3 to 5 m tonnes.").

[146] CR at V-8; PR at V-4.

[147] CR at V-8; PR at V-4; see also Quarterly Market Outlook, World Sugar Market, International Sugar Organization (May 2005) ("ISO Quarterly Market Outlook") at 21, attached to Posthearing Br. as Exh. 2 ("A widening Asian deficit as well as India's continuing and, since recently, China's presence in the market make the downside price potential quite limited.").

[148] See LMC Commodity Bulletin: Sugar (Aug. 2005) at 2 ("[T]he rapid pace of Brazilian shipments...[is] reducing future availability...").

[149] See LMC Commodity Bulletin, supra. at 5-6 ("...Brazilian ethanol prices have risen again in recent weeks, taking them back to the levels seen during the inter-crop period...ethanol demand has been strong over the last few weeks, with high gasoline prices creating an incentive for consumers to add additional quantities of ethanol to their cars."); The Czarnikow Sugar Review, supra. at 70 ("Given the tight ethanol balance, this season saw considerable emphasis placed upon ethanol at the start of the crush.").

[150] CR/PR Table V-2.

[151] CR/PR at Table V-2; see also CR/PR at Table F-1 (U.S. price declined 12.1 percent between 1999 and 2004); see also Prehearing Br. at 39 ("[T]he nominal prices of sugar in the United States are at similar or even lower levels today than at the time of the 1998/99 Sunset Reviews.").

[152] See CR/PR at Table V-1 and Figure V-3; see also CR/PR at Figure V-1.

export to the U.S. market. Nominal U.S. refined sugar prices have been flat since 1985,[153] and sugar market observers generally project stable to increasing world sugar prices.[154] Given these anticipated price trends, as well as the price trends over the POI, we find it unlikely that the instances over the POI where the gap between U.S. and world sugar prices exceeded 16.21 cents will recur in the reasonably foreseeable future, contrary to the domestic interested parties' arguments.[155]

In the unlikely event that the gap between U.S. and world sugar prices were to equal or exceed 16.21 cents, factors other than the orders would likely restrain subject import growth, such as safeguard duties[156] and transportation costs.[157] Non-Mexican,[158] non-subject imports did not increase significantly during the periods of the POI in which the gap between world and U.S. sugar prices exceeded 16.21 cents per pound.[159]

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[153] See First Review Determinations at V-9 ("stable nominal prices for U.S. raw and refined sugar...since 1980"), Figure V-5; see also Tr. at 14 (Roney) ("Over the past two decades, nominal raw cane and refined sugar prices have been flat or slightly lower"), 44 (Breaux) ("[Y]ou are receiving basically the same price for your sugar for the past 23 years"), 61 (Manning) ("The minimum price support for sugar has been at the same level since about 1985"); Domestic Interested Parties' June 28, 2005 Hearing Exhibit, "U.S. Wholesale Refined Sugar Prices, Nominal and Real, 1985-2004 (showing flat trendline for nominal refined sugar prices).

[154] See LMC Commodity Bulletin, supra. at 1 ("Sugar prices have shown no let up in their ascent in recent weeks..."), 5 ("[T]he market's ability to sustain current values will depend, in part, on China's import demand, as well as on the funds' [sugar traders'] next move."), Diagram 1 (showing that sugar futures prices for the Oct. 2005-May 2006 period have increased substantially as compared to futures prices for the Oct. 2005-May 2006 period six months ago and one month ago), Diagram 2 (raw and white sugar future prices increasing through November 2005); The Czarnikow Sugar Review, supra. at 69-70 (projecting that world sugar prices will remain "range bound" for the next twelve months, while "longer term prospects for the [global sugar] market remain extremely constructive"); ISO Quarterly Market Outlook, supra. at 21 (projecting stable world sugar prices, but also observing that "there is no real consensus among market commentators concerning the statistical balance [of world sugar supply and demand] for 2004/2005...the interpretations of the projected [sugar supply] deficit also vary from neutral to distinctively bullish."); Won W. Koo and Richard D. Taylor, "2004 Outlook of the U.S. and World Sugar Markets, 2003-2013," Center for Agricultural and Trade Studies (June 2004) at 8, attached to Posthearing Br. at Exh. 5 (predicting 15.6 percent increase in the Carribean price of sugar and a 6.8 percent increase in the U.S. wholesale price of sugar between 2003 and 2013).

[155] See Posthearing Br. at 9.

[156] See Memorandum INV-CC-118 (Aug. 4, 2005) at Tables S-1 and S-2. We recognize that the annual sugar prices depicted in Table S-1 do not capture the fluctuations in sugar prices over the course of each year. See Final Comments at 7. However, the tier II tariff and applicable safeguard duties are no less prohibitive with reference to the quarterly U.S. and world prices of sugar reported in Table V-2 of the Staff Report. The monthly price data submitted by the domestic interested parties indicates that subject imports could not have been entered at a value equal to the U.S. price minus the tier II tariff at any time over the POI without triggering the imposition of additional safeguard duties, which would have left no economic incentive for EU producers to export to the U.S. market. See Posthearing Br. at Exh. 6.

[157] Sugar producers bear significant transportation costs in serving distant markets. See CR at V-1; PR at V-1; see also ISO Quarterly Market Outlook, supra. at 21 ("Another interesting feature of the market is a continuing strength of ocean freight rates...Extremely high ocean freight rates increase considerably c.i.f. prices paid by importers, limiting demand growth in some price sensitive markets.").

[158] Mexican sugar imports under tier II are subject to a lower tier II tariff of 3.10-4.80 cents per pound, CR/PR at Table I-5, and are not subject to the surplus production requirement. CR/PR at Table IV-15 (Mexican exports of up to 250,000 metric tons of surplus sugar are duty-free).

[159] Compare CR/PR at Figure F-1 (price gap in 1999 and 2003) with CR/PR at Table IV-4 (non-Mexican, non-subject import volumes not substantially higher in 1999, 2002 and 2003, as compared to 2000, 2001 and 2004).

Conditions of EU sugar supply, including production and inventory trends, support our finding that EU sugar producers are unlikely to have an economic incentive to increase exports to the U.S. market in the reasonably foreseeable future, were the orders to be revoked. EU expansion has increased EU sugar production little more than consumption,[160] and declining sugar production in the 15 pre-expansion member states limited the increase in EU sugar production to one percent between pre-expansion 1999/2000 and post-expansion 2003/2004.[161] Despite a projected increase in EU sugar stocks (i.e., inventories),[162] the USDA anticipates that EU sugar exports will decline in 2004/2005 and 2005/2006 relative to 1999/2000 and 2000/2001, due to increased shipments within the EU.[163] In light of attractive world sugar prices, EU producers are unlikely to shift sugar exports to the United States from traditional third-country markets, which are geographically closer,[164] and generally more open to sugar imports,[165] than the U.S. market.[166] [167]

We consequently conclude that the likely subject import volumes would not be significant if the orders under review were revoked.

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[160] CR at IV-17-19; PR at IV-14 (new member states projected to increase EU sugar consumption from 16 million short tons in 2003/2004 to 19.5 million short tons in 2004/2005); CR/PR at Table IV-11 (EU shipments increased from 15.863 million short tons in 2003/2004, pre-expansion, to 19.538 million short tons in 2004/2005, post-expansion), Table IV-10 (new member states projected to produce 4.028 million short tons in 2004/2005).

[161] See CR/PR at Table IV-10 (EU-15 sugar production declined from 21.546 million short tons in 1999/2000 to 18.194 million short tons in 2003/2004, or 15.6 percent.). Public information on EU sugar production capacity was unavailable, and all but four EU producers did not respond to the Commission's questionnaires. CR at IV-16; PR at IV-13.

[162] Sugar stocks in the EU declined from 4.2 million short tons in marketing year 1999/2000 to 3.6 million short tons in marketing year 2003/2004. Estimated sugar stocks in 2004/2005 are 5.9 million short tons. CR/PR at Table IV-11.

[163] CR at IV-19; PR at IV-14; CR/PR at Table IV-11.

[164] CR/PR at Table IV-13 (major EU sugar markets are in Eastern Europe, North Africa, the Middle East, the former Soviet republics, and the Balkans); CR at V-1; PR at V-1 (Ocean transportation costs from the EU to the United States were significant, at 16.7 percent of c.i.f. value. Inland transportation costs within the United States ranged between 7 and 10 percent of delivered prices.); see also ISO Quarterly Market Outlook, supra. at 21 ("Another interesting feature of the market is a continuing strength of ocean freight rates...Extremely high ocean freight rates increase considerably c.i.f. prices paid by importers, limiting demand growth in some price sensitive markets.").

[165] See CR/PR at Table IV-14. We acknowledge that sugar from the EU and/or individual EU member states are subject to antidumping and countervailing duty orders in Canada. CR at IV-27-28; PR at IV-25.

[166] There is no evidence that EU production facilities currently used for other products could potentially be shifted to production of sugar.

[167] Commissioner Pearson believes that, in the unlikely event that the gap between U.S. and world sugar prices were to become wide enough to make tier II sugar imports economical, it is more likely that any tier II sugar imports would come from non-subject countries such as Brazil, and not from the EU. During the period of investigation, Brazil was the largest source of non-Mexican tier II sugar imports by the United States. Brazil exports primarily raw sugar, the type of sugar demanded by U.S. importers, whereas the vast majority of EU sugar exports are refined sugar. U.S. refiners of raw cane sugar accounted for virtually all reported imports of sugar between 1999 and 2004. CR at IV-9 n.5; PR at IV-8 n.5.

D. Likely Price Effects of Subject Imports[168]

In evaluating the likely price effects of subject imports if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.[169]

In its original determinations concerning sugar from Belgium, France, and Germany, the Commission found that subject imports undersold the domestic product by an average of 0.42 cent per pound, as a consequence of which Southeast regional producers were unable to sell a substantial portion of their raw sugar at a price equal to or greater than either the loan rate or their cost of production, resulting in forfeitures to the CCC.[170] In the original determination concerning sugar from the European Community, the Commission found that the domestic industry, which it characterized as just starting to recover economically, would again be threatened with material injury by a large influx of imports from the European Community if the order were revoked.[171]

In the first five-year reviews, the Commission found that subject imports would likely undersell the domestic like product, significantly depressing and suppressing U.S. sugar prices, were the orders to be revoked.[172] Due to the absence of reliable pricing data for sugar imported from the EU,[173] the Commission based its decision on the fungibility of sugar from all sources, and the likelihood that European producers would continue shipping substantial sugar exports to the United States until declining U.S. sugar prices equalized their net return on U.S. sales with their net return on sales at the world price.[174]

We continue to find that sugar is a fungible, price-sensitive commodity.[175] Accordingly, we find that additional volumes of sugar supplied from any source would likely result in reduced prices for the domestic like product. The significance of such price depression with respect to subject imports, however, must be considered in conjunction with the likely increase in subject import volume that would result from revocation of the orders. We conclude that the likely insignificant increase in subject import volume in the event of revocation would not expand U.S. sugar supply sufficiently to significantly depress or suppress U.S. sugar prices. Without an economic incentive to increase refined sugar exports to the United States under tier II of the TRQ, EU producers are likely to increase their exports of refined

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[168] Commissioner Pearson joins the majority's views concerning the likely price effects of subject imports. Commissioner Pearson notes that the likely price effects of subject imports from Belgium, France, and Germany, respectively would necessarily be less than the likely price effects of subject imports from the EU.

[169] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[170] BFG Original Determinations at 4-5.

[171] EU Original Determination at 4, 9.

[172] First Review Determinations at 36.

[173] First Review Determinations at 36.

[174] First Review Determinations at 36.

[175] See CR at II-8-9; PR at II-5-6 (subject imports generally interchangeable with U.S. sugar); CR/PR at Tables II-3-4 (price cited as the most important purchasing factor).

sugar to the United States by no more than the first-come, first-served (tier I) quota of 7,815 short tons.[176] Because this likely increase in subject import volume is very small, and would only displace existing tier I imports, it would not likely have any significant price effects.[177]

Any economic incentive for EU producers to undersell would be limited by the extent to which the U.S. sugar price minus the tier II tariff, with the addition of any applicable safeguard duties, exceeds the world price of sugar. Because we find that the U.S. sugar price minus the tier II tariff, taking into account any applicable safeguard duties, is unlikely to exceed the world price of sugar, we find it unlikely that EU producers will have any economic incentive to undersell U.S. sugar producers in the reasonably foreseeable future, were the orders to be revoked.[178]

We consequently find that revocation of the orders under review is unlikely to have significant price effects.

E. Likely Impact of Subject Imports[179]

In evaluating the likely impact of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[180] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[181] As instructed by the statute, we have considered the extent to which any improvement in the

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[176] See CR at I-27; PR at I-20.

[177] Witnesses for the domestic interested parties testified at the Commission's hearing that a 300,000-400,000 short ton increase in non-subject imports in 2000 caused a 30 percent decline in U.S. sugar price. Tr. at 56 (Manning), 143 (Roney). We note that the 570,000 short ton increase in domestic sugar production in 2000 would have contributed to the price decline. See CR/PR at Table III-3; see also Tr. at 143 (Roney) ("So what we had in '99-2000 was the direct consequence of the 1996 Farm Bill...[t]hat shot up our production...But because the USDA could not reduce imports below the 1.25 million tons [agreed upon in the Uruguay Round Agreement], that's why we had this tremendous drop in prices."). Economic studies submitted by the domestic interested parties calculate negative price effects from hypothetical increases in import volume of between 500,000 and three million short tons. See Posthearing Responses at 82-84 (responding to a question from Commissioner Hillman, Tr. at 164-165). As previously discussed, the record does not support the proposition that subject imports are likely to make any material contribution to an increase of such magnitude.

[178] As in the first five-year reviews, we were unable to obtain meaningful current pricing or average unit value on subject imports due to the minimal volumes of subject imports over the POI, as well as the lack of participation in these reviews by EU producers.

[179] Commissioner Pearson joins the majority's views concerning the likely impact of subject imports. Commissioner Pearson notes that the likely impact of subject imports from Belgium, France, and Germany, respectively, would necessarily be less than the likely impact of subject imports from the EU.

[180] 19 U.S.C. § 1675a(a)(4).

[181] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the

(continued...)

state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.[182]

In the original determinations concerning sugar from Belgium, France, and Germany, the Commission found that subject imports displaced domestic sales through underselling, causing domestic producers to build up inventories and suffer financial losses. The Commission further determined that the industry's losses would have been worse but for the ability to forfeit production to the CCC at the loan rate.[183] In its original determination with respect to sugar from the European Community, the Commission found that the domestic industry's production and capacity utilization were beginning to recover, and inventories were declining, but that the industry would be threatened with material injury if the countervailing duty order on sugar from the European Community were revoked.[184]

In the first five-year reviews, the Commission concluded that revocation of the orders would likely inflict material injury on the domestic industry within a reasonably foreseeable time, given the likely loss of sales volume and per-pound revenue from increased subject imports.[185] The Commission found that the domestic industry was vulnerable to material injury based upon "the low operating returns evident in some segments...and the overall lackluster financial performance of the industry as a whole, despite the existence of the U.S. sugar program,"[186] highlighting the generally declining net profit margins for sugar refiners/processors and cane millers.[187] The Commission was unable to ascertain whether the orders had benefitted the domestic industry due to the "myriad changes" in the U.S. market since the orders had been imposed.[188]

As in the first five-year reviews, we are unable to determine whether any improvements to the domestic industry have resulted from the antidumping and countervailing duty orders, given the dramatic changes in the U.S. sugar market since the orders were imposed, particularly the TRQ imposed in October

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[181] (...continued)
administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce found that revocation of the antidumping duty findings would likely result in the continuation or recurrence of dumping at the weighted-average margin of 103 percent for Belgium, 102 percent for France, and 121 percent for Germany. CR at I-10; PR at I-8 (citing Sugar from Belgium, France, and Germany: Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Findings, supra.). Commerce found that revocation of the countervailing duty order would likely result in the continuation or recurrence of a net countervailable subsidy of 21.73 cents per pound. CR at I-10; PR at I-9 (citing Sugar from the European Community; Final Results of the Full Sunset Review of the Countervailing Duty Order, supra.). In addition, the statute provides that "if a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." 19 U.S.C. § 1675a(6). Commerce has indicated that the EU's export restitution payments on sugar fall within the definition of an export subsidy under Article 3.1(a) of the WTO Subsidies Agreement. See Issues and Decision Memorandum from Barbara E. Tillman to Joseph A. Spetrini for the Full Sunset Review of the Countervailing Duty Finding on Sugar from the European Community: Final Results, Case No. C-408-046 (July 28, 2005) at 3.

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

[183] BFG Original Determinations at 4-5.

[184] EU Original Determination at 4, 9.

[185] First Review Determinations at 38.

[186] First Review Determinations at 37; see also id. at 30.

[187] First Review Determinations at 30.

[188] First Review Determinations at 37.

1990.[189] For the same reason, we cannot draw any conclusions about the current effect of the orders from the fact that subject import volume declined to negligible levels immediately following imposition of the orders, based on then prevailing market conditions.[190] The increase in subject import volume over the POI of the original investigations, and the virtual elimination of subject imports after the imposition of the orders, occurred at a time when sugar imports were subject to relatively low most favored nation ("MFN") duty rates and a non-binding quota.[191]

We do find, however, that the financial condition of the domestic industry has improved since the first five-year reviews so that the industry is no longer vulnerable to material injury were the orders to be revoked.[192] The industry's operating and financial performance has exhibited positive trends. Domestic market share over the POI was substantially higher than over the POI of the first five-year reviews, with the exception of 2002.[193] Processors and refiners posted operating profits throughout the POI, and net income in every year but 2001, with operating margins peaking at the end of the POI at 6.2 percent of sales in 2004 and 8.4 percent of sales in interim 2005.[194] Review of the producer-specific data on which

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[189] CR at I-24; PR at I-17; First Review Determinations at 30; see also Posthearing Responses at 55-56 (responding to a question from Commissioner Pearson, Tr. at 64) (summarizing the evolution of quotas and tariffs restraining imported sugar since 1974).

[190] See Final Comments of the Domestic Industry, Sugar from Belgium, France, and Germany, and Sugar from the EU, Inv. Nos. 104-TAA-7 and AA1921-198-200 (Second Review) (Aug. 9, 2005) ("Final Comments") at 1-2 ("Graph 1 of our Post-Hearing Submission...demonstrates the clear causal connection between the EU import pattern and the imposition of the trade remedy orders."); Posthearing Responses at 57 (responding to a question from Commissioner Pearson, Tr. at 151-152) (presumably "Graph 1"); see also Prehearing Br. at 32.

[191] See Posthearing Responses at 55 (responding to a question from Commissioner Pearson).

[192] Vice Chairman Okun and Commissioner Hillman view the industry as vulnerable to material injury. In their view, the extreme price sensitivity of the sugar market and the willingness of buyers to switch suppliers based on very small differences in price could lead to a significant loss of market share following relatively minor changes in price. See CR at II-13, PR at II-8-9, for a discussion of the high degree of substitutability between subject imports and the domestic like product. While a number of financial indicators improved over the POI, overall operating income for most industry segments was not greater at the end of the POI than it was at the beginning of POI. CR/PR at Tables III-8, III-11, and III-14. In addition, they view the fact that a number of producers forfeited their sugar to the CCC in fiscal year 2004 as an indication that at least some producers were not able to sell their sugar in the market at prices which covered the cost of repaying their loans, suggesting that any further declines in price could push additional producers to forfeit their sugar. CR at I-21; PR at I-15. Finally, while they agree that much consolidation occurred during the POI, resulting in increases in productivity, they note that much of that consolidation was debt-financed, reportedly leaving many beet growers, in particular, with significant levels of debt. Posthearing Br. at 13. As such, these growers are more sensitive to price declines or lower marketing allotments than they were before taking on these investments in beet processing facilities. Vice Chairman Okun and Commissioner Hillman note that their negative determinations in these reviews are based on their finding that there will not likely be a significant volume of sugar imported from subject countries.

[193] Compare CR/PR at Table I-12 (market share of 83 percent in 1999, 90 percent in 2000, 87 percent in 2001, 79 percent in 2002, 87 percent in 2003, 88 percent in 2004) with First Review Determinations at Table I-12 (domestic market share was 73 percent in 1997, 80.5 percent in 1998, 83.8 percent in the first quarter of 1998 and 89.6 percent in the first quarter of 1999).

[194] CR/PR at Table III-7 (using estimated raw material costs for *** which did not report raw material costs). The same trends in operating and net income are evident when *** data are excluded. See id. at Table E-3B. Net income margins also peaked at the end of the POI, at 6.3 percent in 2004 and 7.7 percent in interim 2005. Id. at Table III-7. Refiner/processor profitability increased over the POI notwithstanding a slight decline in apparent consumption and flat prices. See id. at Tables C-1, V-1 and V-2.

domestic interested parties would have us rely does not detract from our conclusion,[195] although the statute requires that we base our vulnerability determination on the financial performance of the domestic industry as a whole.[196] Cane millers also were profitable throughout the POI.[197] Sugar beet and sugar cane grower net income margins remained in the double digits across the POI, generally at around 20 percent of sales.[198]

The return on investment realized by refiners and processors also remained positive throughout the POI, peaking at 9.4 percent of assets in 2004.[199] The return on investment realized by millers was just as positive through 2002, although returns were lower in 2003 and 2004.[200] Research and development expenditures generally increased for processors, refiners,[201] and growers,[202] but trended slightly lower for millers,[203] over the POI.

We find that the restructuring and consolidation of the domestic industry over the POI,[204] evidenced by the closure of 22 of the highest cost facilities[205] and a 20.9 percent decline in processor/refiner employment,[206] served to enhance the competitiveness of the domestic industry.[207]

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[195] See Posthearing Responses at 28-29 (responding to questions from Chairman Koplan, Tr. at 118-119, Vice Chairman Okun, Tr. at 120, Commissioner Miller, Tr. at 136, and Commissioner Hillman, Tr. at 139-140). Most sugar processors and refiners exhibited healthy financial performance over the POI, particularly towards the end of the POI, according to data reported in response to question III-6 of their respective domestic producers' questionnaire responses. Indeed, the number of processors and refiners reporting operating losses declined from six in 2001 to two in 2004 and interim 2005. CR/PR at Table III-7. Only three firms performed poorly over the POI: ***. See Domestic Producers' Questionnaire Responses of ***. We have included byproduct revenues in our analysis pursuant to accepted accounting methods. See CR at III-14; PR at III-10.

[196] 19 U.S.C. §§ 1675a(a)(1)(C)("The Commission shall take into account...whether the industry is vulnerable to material injury if the order is revoked... ."), 1677(4)(A)("The term 'industry' means the producers as a [w]hole of a domestic like product... .").

[197] CR/PR at Table III-11.

[198] CR/PR at Table III-14.

[199] CR/PR at Table III-10 (The ratio of operating income to total assets was 7.2 percent in 1999, 6.8 percent in 2000, 3.7 percent in 2001, 6.2 percent in 2002, 6.4 percent in 2003, and 9.4 percent in 2004).

[200] CR/PR at Table III-13 (The ratio of operating income to total assets was 7.4 percent in 1999, 4.5 percent in 2000, 5.9 percent in 2001, 6.0 percent in 2002, 1.0 percent in 2003, and 2.7 percent in 2004). Growers' return on investment could not be calculated, because the majority of growers did not report their total assets, as requested. CR at III-24; PR at III-17.

[201] CR/PR at Table III-9 (processor/refiner R&D expenditures increased slightly from $2.096 million in 1999 to $2.410 million in 2004, and from $693,000 in interim 2004 to $719,000 in interim 2005).

[202] CR/PR at Table III-15 (grower R&D increased from $1.331 million in 1999 to $1.525 million in 2004).

[203] CR/PR at Table III-12 (miller R&D expenditures declined slightly from $1.757 million in 1999 to $1.331 million in 2004).

[204] See, e.g., Prehearing Br. at 40-42 (enumerating plant closures and other measures taken by the domestic industry "in an effort to become more efficient and competitive in the marketplace").

[205] See Prehearing Br. at 40.

[206] CR/PR at Table III-6.

[207] See, e.g., Prehearing Br. at 40 ("In addition to plant closures since 1998/1999, the U.S. sugar industry has undergone significant ownership restructuring in an effort to become more efficient and competitive in the marketplace."). Refiners' and processors' capacity utilization increased from 80 percent in 1999 to 89 percent in 2004, as capacity declined by 6.7 percent between 1999 and 2004. CR/PR at Table III-3. Both capacity and capacity utilization were slightly lower in interim 2005 compared to interim 2004. Id.

Labor productivity increased 42.5 percent over the POI, from 0.40 short tons per man hour in 1999 to 0.57 short tons per man hour in interim 2005,[208] and unit labor costs declined 19.8 percent.[209] The increased proportion of cooperative arrangements between beet growers and processors, and between cane growers and millers, has served to secure markets for sugar beets and cane[210] without significantly increasing costs for growers, millers, or processors.[211]

We find that the evidence concerning demand and supply trends in the U.S. market does not suggest that the domestic industry is vulnerable to material injury. The domestic industry's healthy financial performance during the POI occurred during a time of relatively stable sugar demand and prices.[212] The USDA projects demand growth in 2005 and 2006[213] that may, by 2006, "cause cane sugar stocks [to] be drawn down considerably below levels seen for a number of years."[214]

We also find it unlikely that marketing allotments will be triggered off by imports in excess of the 1.532 million short ton trigger in the reasonably foreseeable future. The small additional volume of subject imports that is likely, which will replace non-subject import volume under tier I of the TRQ, will not likely trigger off marketing allotments.

We have found that subject import volume is unlikely to increase significantly were the orders to be revoked, resulting in no likely significant price effects, and that the domestic industry is not vulnerable to material injury. We therefore conclude that revocation of the antidumping orders, and the countervailing duty order, would not likely have a significant impact on the domestic industry within a reasonably foreseeable time,[215] in terms of output, sales, market share, profits, productivity, return on

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[208] CR/PR at Table III-6.

[209] CR/PR at Table III-6 (from $40.59 per short ton in 1999 to $32.56 per short ton in interim 2005).

[210] See CR at I-37; PR at I-28; see also Posthearing Br. at 43 ("Because sugar cane and sugarbeets cannot be transported over large distances due to high freight costs, growers were faced with the prospect of not having a buyer for their harvests. This prospect resulted in a number of growers forming cooperatives to purchase the milling and processing facilities of these exiting firms."); Tr. at 15 (Roney) ("Growers have organized cooperatively, borrowing capital and purchased beet processing and cane refining operations that otherwise would have closed... ."), 46-47 (Jones) ("In order to survive, roughly 1300 shareholding farmers in our region banded together to form Western Sugar Cooperative to acquire the processing plants that once were operated by this independent processing company [that had exited the market].").

[211] The domestic interested parties argued that the formation of cooperatives over the POI had increased the debt burden of growers, see Prehearing Br. at 44; see also Tr. at 9 (Cofranscesco), 15 (Roney), 46 (Jones), but we find no evidence of increased debt servicing costs on the record. See CR/PR at Table III-14 (total expenses for growers was flat over the POI), Table III-11 (millers' interest expenses declined over the POI), Table III-7 (processors'/refiners' interest expenses declined over the POI). The domestic interested parties provided no evidence of increased debt serving costs in response to the Commission's request for such information at the hearing. See Tr. at 117-118 (Chairman Koplan).

[212] See CR/PR at Table I-12 (shipments stable over POI, fluctuating around 10 million short tons per year), Figure V-3 (pricing product prices generally stable over POI).

[213] CR/PR at Table I-12 (USDA projects that U.S. refined sugar shipments will increase by 159,000 short tons in 2005, and 95,000 short tons in 2006); see also USDA, Sugar and Sweeteners Outlook (May 31, 2005) at 6, attached to Posthearing Br. as Exhibit 4 (estimating an increase in sugar consumption of 200,000 short tons in 2004/2005 and 75,000 short tons in 2005/2006); Tr. at 85 (Doxsie) (anticipating demand growth of "one percent-ish or a very low number like that"), 86 (Roney) ("The U.S. Department of Agriculture is predicting this year a turnaround in sugar consumption of 1 or 2 percent and we're hoping that's a path we can stay on.").

[214] Sugar and Sweeteners Outlook, supra. at 18; see also id. at 13 (current trends imply "an ending stocks-to-use ratio of 13.09 percent" for FY 2005, "the lowest since FY1995... .").

[215] The domestic interested parties claim that sugar prices are near forfeiture levels, such that even a modest (continued...)

investments, utilization of capacity, cash flow, inventories, employment, wage growth, ability to raise capital, investment, and the industry's development and production efforts.[216]

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on sugar from Belgium, France, and Germany would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We also determine that revocation of the countervailing duty order on sugar from the EU would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

[215] (...continued)
increase in subject import volume after revocation of the orders would trigger sugar forfeitures to the CCC. See Tr. at 16, 82 (Roney), 52 (Jones), 134 (Burton); see also Posthearing Br. at 12. We find it unlikely that subject imports would materially contribute to any possible sugar forfeitures were the orders to be revoked, given that there is no likelihood of a significant increase in subject import volume or significant price effects, and the myriad other factors influencing prices in the U.S. market.

[216] Accordingly, as required under 19 U.S.C. § 1677(7)(D)(ii), we determine that revocation of the orders under review will not likely result in any increased burden on government income or price support programs.

SEPARATE AND ADDITIONAL VIEWS OF VICE CHAIRMAN DEANNA TANNER OKUN AND COMMISSIONER CHARLOTTE R. LANE

We provide these separate and additional views to explain the significance of the U.S. Court of International Trade's ("CIT") interpretation of "likely" in evaluating the evidence in this, and any five-year review, as opposed to the domestic interested parties' suggested construction.

The legal standard the Commission is to apply in five-year review cases is whether revocation of an order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[1] The CIT has found that "likely," as used in the five-year review provisions of the Act, means "probable," that probable means "more likely than not," and that a Commission affirmative determination in a five-year review would be deemed to be in error absent application of this standard.[2]

When asked to address the "likely" standard in this case, counsel for the domestic industry questioned the CIT's interpretation of the "likely" standard and argued that the CIT's interpretation contradicts the legislative history of the statute and Congressional intent.[3] Counsel argued that the Commission should apply a likely standard in a "manner as to include a low to moderate degree of certainty."[4] They further argued that such a standard should be interpreted as "more than a mere possibility but less than a 'more likely than not' standard."[5] Counsel also noted that in a different legal context the United States Supreme Court has held that a "reasonable likelihood" must rise above a mere possibility but need not be "more likely than not."[6]

We note that the arguments of the domestic interested parties in many respects mirror the arguments made by the Commission in the litigation before the CIT regarding the interpretation of the "likely" standard. In its remand determination in Usinor Industeel, the Commission stated its view that the meaning of the word "likely" is found in the statutory language itself and the relevant explanation of that text found in the Statement of Administrative Action ("SAA").[7] The Commission noted that the SAA explains that a determination by the Commission in a five-year review "is inherently predictive."[8] As a result of the inherently predictive nature of the inquiry, the SAA explains that "[t]here may be more than one likely outcome following revocation" (emphasis added) and that "[t]he possibility of other likely

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[1] 19 U.S.C. § 1675a(a)(1).

[2] See Siderca, S.A.I.C. v. United States, Slip Op. 04-133 at 6 (Oct. 27,2004) ("The common meaning of 'likely' is 'probable,' or, to put it another way, 'more likely than not'") (Siderca); NMB Singapore Ltd. V. United States, 288 F. Supp. 2d 1306, 1352 (2003) ("'likely' means probable within the context of 19 U.S.C. §§ 1675(c)) and 1675a(a)"); Nippon Steel Corp., et al. v. United States, Slip Op. 02-153 at 7-8 (Dec. 24, 2002) (same) (Nippon); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 6 n. 6 (Dec. 20, 2002); (Usinor Industeel III); and Usinor v. United States, Slip Op. 02-70 at 43-44 (July 19, 2002) (Usinor).

[3] Posthearing Submission of the U.S. Sugar Industry, Responses to Commissioner Questions, Five-Year Reviews Concerning the Countervailing Duty Order on Sugar from the European Union and the Antidumping Duty Orders on Sugar from Belgium, France, and Germany, Inv. Nos. 104-TAA-7 (Review) and AA-1921-198-200 (Review) (July 7, 2005)("Posthearing Responses") at 2 (responding to a question from Commissioner Pearson, Tr. at 70).

[4] Posthearing Responses at 3.

[5] Posthearing Responses at 3.

[6] Posthearing Responses at 3.

[7] Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand of Chairman Okun and Commissioners Bragg and Miller), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 6.

[8] SAA at 883.

outcomes does not mean that a determination that revocation or termination is likely to lead to continuation or recurrence of dumping or countervailable subsidies, or injury, is erroneous . . ."[9]

Thus, the Commission stated that reading the term "likely" in conjunction with the SAA led it to conclude that "likely" captures a concept that falls in between "probable" and "possible" on a continuum of relative certainty. In reviewing the Commission's remand determination in Usinor Industeel, the CIT rejected the Commission's interpretation.[10]

We have noted in previous opinions that we do not concur with the CIT's interpretation of the "likely" standard.[11] We have cited in particular that the CIT's interpretation of the word "likely" contradicts and is inconsistent with the meaning of the statutory language and the relevant explanation of that language found in the SAA. The CIT's interpretation of "likely" allows only one "likely" outcome since only one outcome can be more likely than not. However, the SAA explains that there could be multiple "likely" outcomes.

There may be outcomes that are more than merely possible that do not rise to the level of "more likely than not" but we are precluded by the CIT from using that standard to evaluate the likely effect of such outcomes.

Our obligation in this case, and all other five-year reviews, is to apply the CIT's interpretation of the "likely" standard until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue. Applying this standard, we cannot conclude, based on the record in this proceeding, that revocation of the orders would be more likely than not to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

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[9] SAA at 883.

[10] Usinor Industeel III, Slip. Op. 02-152 at 5-6. The Court, however, did not remand the matter to the Commission on those grounds, as the Commission explicitly adopted the Court's definition of "likely" for purposes of making that remand determination. Id. at 4.

[11] See, e.g., Pressure Sensitive Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004). See also, Certain Seamless Carbon and Allow Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, and Germany (Views on Remand) Inv. Nos. 731-TA-707-709 (Review) (Remand), USITC Pub. 3754 (February 2005), Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard at 33-35.

SEPARATE VIEWS OF COMMISSIONER DANIEL R. PEARSON

I find that revocation of any of the individual antidumping duty orders on sugar from Belgium, France, and Germany, would likely have no discernible adverse impact on the domestic industry. Likewise, I find that revocation of the countervailing duty order on sugar from the European Union would have no discernible adverse impact on the domestic industry.

As discussed in greater detail in the Commission's views concerning the likely volume of cumulated subject imports, I find that, based on the gap between the U.S. and world sugar prices and other factors, it is unlikely that EU producers will ship any tier II sugar to the United States in the reasonably foreseeable future. The volume of EU subject imports possible under tier I of the TRQ is 7,815 short tons, or 0.07 percent of U.S. apparent consumption in CY2004.[1] The volume of EU subject imports under tier I is likely to be less than this amount, given that non-subject imports would compete for the same quota on a first-come, first-served basis.[2] The significance of any increase in EU subject import volume under tier I is further diminished by the fact that this increase in subject imports would merely displace existing tier I imports, and would not displace sales of domestic sugar. Because I find there likely will be no more than a minimal increase in EU subject import volume, I also find that those imports would have a corresponding minimal effect on domestic sugar prices.[3]

Any likely increase in subject import volume from Belgium, France, and Germany, respectively, would be a subset of EU subject imports, and therefore of less significance than the likely increase in EU subject import volume were each of the antidumping duty orders to be revoked. By the same token, subject imports from Belgium, France, and Germany, taken individually, would be even less significant in terms of their likely price effects and impact on the domestic industry, as compared to EU subject imports.

Given the minimal likely increase in subject import volume from Belgium, France, Germany, and the EU, the fact that any increase in subject imports would displace non-subject imports and not sales of domestic sugar, and the minimal likely price effects associated with any likely increases in subject import volume from each source, I conclude that revocation of each of the antidumping orders and the countervailing duty order would not likely have a discernible adverse impact on the domestic industry within a reasonably foreseeable time, in terms of output, sales, market share, profits, productivity, return on investments, utilization of capacity, cash flow, inventories, employment, wage growth, ability to raise capital, investment, and the industry's development and production efforts.

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[1] CR at I-27; PR at I-20; CR/PR at Table I-13.

[2] Tier I imports from Canada and Mexico would pay no duties, while tier I EU sugar would be assessed duties in the range of 1.43 to 1.66 cents per pound. CR/PR at Table I-5.

[3] The final report for the Commission's first reviews noted that "Subject and non-subject countries compete on a first-come, first-served basis for the unallocated refined sugar portion of the TRQ. Given the homogeneous nature of sugar, whether that refined sugar portion of the TRQ is supplied by subject or non-subject countries would appear to make little difference on prices and quantities of sugar in the U.S. market. In either case, imports are expected to be near the quota break point, and the equilibrium price associated with that quantity is expected to be the same regardless of the country of origin of the supplier." *Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups from Canada, Investigation Nos. 104-TAA-7 (Review), AA1921-198-200 (Review), and 731-TA-3 (Review),* USITC Publication 3238, September 1999, p. II-11.

DISSENTING VIEWS OF COMMISSIONER MARCIA E. MILLER

Based on the record in these five-year reviews, I determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping findings on sugar from Belgium, France, and Germany and the countervailing duty order on sugar from the European Union ("EU") would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I join with my colleagues' findings on domestic like product, domestic industry, and cumulation. Because I have reached affirmative determinations in these second sunset reviews, I write separately to express my dissenting views on the likelihood of continuation or recurrence of material injury to the domestic sugar industry if the findings and order are revoked.

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

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping finding or countervailing duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the finding or order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[1] The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the finding or order] . . . and the elimination of its restraining effects on volumes and prices of imports."[2] Thus, the likelihood standard is prospective in nature.[3]

The U.S. Court of International Trade has found that "likely," as used in the sunset review provisions of the Act, means "probable," and I apply that standard in five-year reviews.[4]

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[1] 19 U.S.C. § 1675a(a).

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

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

[4] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003)("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002)(same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

The statute states that "the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time."[5] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations]."[6]

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked."[7] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.[8] [9]

The statute provides that when an interested party withholds information that has been requested by the Commission, the Commission shall "use the facts otherwise available" in reaching its determination.[10] While the Commission received responses to its questionnaires from 100 percent of the U.S. sugar industry, as well as from certain purchasers and importers, it received no information from any EU producers. I thus rely for my determination on the facts available, which include data provided by the domestic industry, and uncontested by any respondents, and public data, including official statistics of the U.S. Departments of Commerce ("Commerce") and Agriculture ("USDA").

For the reasons stated below, I determine that revocation of the antidumping findings on sugar from Belgium, France, and Germany, and the countervailing duty order on sugar from the EU would be likely to lead to continuation or recurrence of material injury to the domestic sugar industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." I have taken into account the following conditions of competition.

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[5] 19 U.S.C. § 1675a(a)(5).

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

[7] 19 U.S.C. § 1675a(a)(1).

[8] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

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

[10] 19 U.S.C. § 1677e(a).

1. U.S. Sugar Program

An important condition of competition is government regulation of both the U.S. and EU sugar markets. The purpose of the U.S. sugar program is to stabilize and maintain sugar prices in the U.S. market and thereby protect farm income.[11] The U.S. government has played an active role in the domestic sugar industry for many years, beginning in 1934 with quotas on domestic production and foreign imports.[12]

An important element of the current U.S. program is a tariff-rate quota ("TRQ") on imports. The TRQ is administered to accommodate both U.S. demand, given that the United States is a net importer, and the minimum level of imports required under international commitments through the operation of a two-tier system. Imports that are "within quota" or "tier I" are dutiable at 0.43 to 0.66 cent per pound for raw cane sugar and 1.43 to 1.66 cents per pound for refined sugar, depending on the polarity (purity or sucrose content) of the sugar. Within quota imports from Mexico, Canada and other free trade agreement ("FTA") countries are duty free. "Over quota" sugar imports pay the tier II duty, which is currently 15.36 cents per pound for raw sugar and 16.21 cents per pound for refined sugar from non-FTA countries.[13] Over quota imports from non-FTA countries also may be subject to additional "safeguard" duties if the import value is less than 11.34 cents per pound for raw cane sugar and less than 15.88 cents per pound for refined sugar.[14] The minimum import quantity for raw cane sugar under the TRQ – 1,231,484 st – is allocated on a country-by-country basis. For refined sugar, the minimum import quantity under the TRQ is 24,251 st, a portion of which (14,610 st) is allocated to specific (non-EU) countries, with the remainder allocated on a global first-come, first served basis.[15] Virtually all EU exports are refined sugar, and thus the portion of the TRQ available to EU exports is relatively small. For example, in quota year 2004/05, 22,425 st of the TRQ were for non-specialty, refined sugar, of which 11,354 st were reserved for Canada and 3,256 st for Mexico, leaving only 7,815 st for the EU and other countries (including Canada and Mexico) on a first-come, first served basis.[16] Under the WTO and NAFTA, the United States is committed to importing 1.532 million st of sugar (WTO – 1.256 million st and NAFTA – 275,578 st),[17] regardless of a drop in U.S. demand and/or an increase in U.S. production levels, due, for example, to favorable weather conditions and a good crop, as occurred during the review period.

Other components of the U.S. sugar program are marketing allotments, which restrict the amount of sugar that processors can market in the United States, and nonrecourse loans, by which USDA must accept sugar pledged as collateral as payment in full, in lieu of cash repayment of a loan. There are currently no penalties for forfeitures of sugar to the Commodity Credit Corporation ("CCC"). Loans average 18 cents per pound for raw cane sugar and 22.9 cents per pound for refined beet sugar.[18] If imports of sugar for human consumption rise above the 1.532 million st level such that the overall allotment quantity must be reduced, U.S. producers are no longer constrained by marketing allotments and can release blocked stocks for sale, forcing U.S. prices downward and the forfeiture of sugar to the U.S. government.[19] Most recently, at the end of the 2004 crop year (September 30, 2004), two U.S.

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[11] CR at I-18, PR at I-13.

[12] CR at I-18, PR at I-13.

[13] CR/PR at Table I-5.

[14] CR/PR at Table I-6.

[15] CR at I-24, PR at I-17; CR/PR at Table I-4.

[16] CR/PR at Table I-4.

[17] CR at I-23, n.50, PR at I-16, n.50.

[18] CR at I-21, PR at I-14.

[19] CR at I-23, PR at I-16.

companies forfeited 40,000 tons of sugar to the CCC.[20] Another example is 1999/2000, when, because of good weather and increased yields, U.S. production increased by 684,000 st, but demand grew by only 45,000 st,[21] and USDA, because of WTO commitments, could not reduce imports below the minimum level. As a result, prices fell by as much as 20-30 percent and one million st of sugar were forfeited to, or purchased by, USDA, costing taxpayers $465 million, according to the CCC.[22] Under the current program the Secretary of Agriculture is directed to administer the sugar program at "no net cost" to the U.S. government by avoiding, to the maximum extent possible, any forfeitures of sugar to the CCC.[23]

2. EU Sugar Program

The EU is the second largest producer and exporter of sugar in the world.[24] An important change since the first sunset review is the enlargement of the EU on May 1, 2004 from 15 members to 25 members.[25] The EU sugar program, which is part of the Common Agricultural Policy ("CAP"), is a complex arrangement including price controls, production controls, import restrictions, and export subsidies. The EU regime encourages the overproduction of sugar and, hence, the availability of exports to major sugar-consuming nations such as the United States. Under the current regime the EU-25 countries are allocated quotas to produce A and B sugar, which can be sold on the EU internal market or exported, with export subsidies provided. Over-quota sugar is C sugar and must be exported, theoretically without export subsidies.[26] However, the World Trade Organization (WTO) ruled in September 2004 that C sugar was effectively cross subsidized by A and B quota sugar.[27] A and B quota sugar is guaranteed a floor price, which is currently 34.62 cents per pound, whether sold internally or exported.[28] Because the A and B quotas are allocated on the basis of historical production patterns, the system encourages the production of significant quantities of C sugar in order to maintain the A and B quota levels. The current A and B quota level is around 19.2 million st for marketing year 2004/05.[29] C sugar production was around 2.2 million st, or approximately 11 percent of total EU production, in calendar year 2004.[30] Total exports from the EU in 2003/04, the most recent full marketing year, were 5.2 million st.[31]

The EU has proposed reforming its sugar regime, in response to an adverse ruling by the WTO and an initiative by the European Commission to bring the sugar program in line with other reforms to the CAP – *i.e.*, decoupled farm income support – by lowering the intervention price and the quantity of

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[20] CR at I-21, PR at I-15; Domestic Industry's Prehearing Brief at 16.

[21] CR/PR at Table I-12.

[22] Domestic Industry's Posthearing Brief, Responses to Commission Questions at 14 (citing www.fsa.usda.gov/ccc).

[23] CR at I-22, PR at I-16.

[24] CR/PR at Figures IV-1, IV-3.

[25] CR at I-7, n.5; I-47, n.113; PR at I-6, n.5; I-33, n.114.

[26] CR at IV-12-13, PR at IV-10-11.

[27] CR at IV-14, PR at IV-11-12.

[28] CR/PR at Table IV-5. According to the domestic industry, the average EU wholesale refined sugar price in 2004 was even higher, at 42 cents per pound. Transcript at 13; Domestic Industry's Posthearing Brief at 5.

[29] CR/PR at Table IV-6.

[30] CR/PR at Table IV-7.

[31] CR/PR at Table IV-11.

production and exports.[32] The current regime is set to expire on July 1, 2006. The new regime could be a continuation of the present regime without change, a slightly modified version of the current regime, or a significantly modified regime, in line with the European Commission's current proposals. However, the suggested reforms have met with strong opposition[33] and there is no evidence that there will be agreement on any meaningful reform taking hold in the reasonably foreseeable future. In addition, even if the current proposals were fully implemented, results would only be realized over the long term, as the new program would last for nine years, from 2006/07 until 2014/15.

The WTO found in September 2004 that C sugar, all of which must be exported from the EU under the current regime, is indirectly subsidized by the subsidies provided to A and B quota sugar.[34] Indeed, the current, guaranteed minimum EU price for refined sugar - 34.62 cents per pound – is so high, compared to both the world price of 12.0 cents per pound and the U.S. price of 24.8 cents per pound,[35] that, if spread out over all EU sugar (A, B, and C), it provides an incentive to EU producers to overproduce and export the sugar to major consuming markets such as the United States, where they can realize an attractive return, even if less than the world price. EU sugar for export, in short, is virtually indifferent to the price at which it is sold.

The EU is also the second largest importer of sugar in the world. The EU gives preferential access to Lomé Convention ("ACP") countries. In addition, it is implementing a phase-out of sugar import tariffs on sugar from the least developed countries under its "Everything But Arms" initiative; it has granted additional quota amounts to sugar from Brazil and Cuba; and it has agreed to duty-free access for sugar imports from the Balkan countries.[36] Imports into the EU, which are forecast to increase by at least 1.6 million tons, from 2.3 million tons to 3.9 million tons, by 2012/13, thus will likely begin to increase in the reasonably foreseeable future.[37]

3. Sugar as a Commodity Product

As discussed in cumulation, sugar is a substitutable commodity product regardless of source.[38] The U.S. sugar market is extremely price sensitive, such that even very small price differences can cause purchasers to switch suppliers.[39] Moreover, the majority of sales in the U.S. market are made pursuant to annual contracts,[40] most of which, as the Commission noted in the first sunset review, are negotiated in the fall after the size of the beet crop is estimated and the TRQ is set for the next year. As the number of market participants has declined through consolidations, price competition for these contracts has become more intense.[41]

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[32] The current proposals call for a 39 percent price cut in two steps between 2006/07 and 2007/08 and, while the A and B quota would be maintained at its current level, producers would be offered direct income payments to cut production. In addition, over-quota production could no longer be exported as C sugar. CR at IV-14-15, PR at IV-12; USDA GAIN Report E35143 at 2-3 (July 15, 2005).

[33] Domestic Industry's Posthearing Brief, Exhibit 27; USDA GAIN Report E35143 at 2, 4-6 (July 15, 2005).

[34] CR at IV-14, PR at IV-11-12.

[35] CR/PR at Table V-2.

[36] Domestic Industry's Posthearing Brief at 7, Responses to Commission Questions at 66.

[37] Domestic Industry's Posthearing Brief, Exhibit 29.

[38] CR at II-13, PR at II-8-9.

[39] CR/PR at Table II-3; Domestic Industry's Posthearing Brief at 14; Transcript at 27-28.

[40] CR at V-3-4, PR at V-2.

[41] See CR at II-3, PR at II-1-2.

4. Price

The world price for sugar is historically quite volatile, responding to small changes in supply and demand, and over the review period shows no clear upward or downward trend. Because of the price-support program and the TRQ, the U.S. price of sugar is generally higher and less volatile than the world price, but likewise shows no clear trends.[42] In April-June 2005, the world price for refined sugar was 12 cents per pound, while the U.S. price for refined sugar was 24.8 cents per pound.[43] The current EU intervention price, as noted, is much higher, currently at 34.62 cents per pound. At times during the review period, although not currently, the world price has been low enough relative to the U.S. price that EU producers could have earned a higher net return by selling their refined sugar in the United States, even with the tier II duty, than at the world price.[44] While both the U.S. and world price were higher in the second quarter of 2005 than in the first quarter of 2005, no upward trend in prices is evident for the reasonably foreseeable future.[45]

5. Demand Conditions

U.S. demand, as measured by apparent U.S. consumption, declined by 2.2 percent over the review period, from 11.5 million st to 11.3 million st.[46] Per capita sugar consumption declined 6.6 percent over the same period.[47] Just under half of the processors/refiners and purchasers responding to the Commission's questionnaires reported a decline in sugar demand over the period.[48] According to USDA, however, sugar demand, which is influenced by dietary trends, the use of sugar substitutes, the age of the population, and imports of sugar-containing products, recovered in 2004, and is projected to grow by 1-2 percent annually over the next two years.[49]

6. Structure of the Domestic Industry

Since the first sunset reviews, 22 of the highest cost sugar mills and refineries have closed, resulting in a decline in domestic sugar capacity.[50] The industry's productivity, however, has increased, from 0.40 st per hour in 1999 to 0.52 st per hour in 2004.[51] Industry consolidation also is reflected in the increasing share of raw and refined sugar produced through cooperative arrangements.[52] The proportion of raw cane sugar milled by cooperatives increased from 14 percent in 1999 to 57 percent in 2003, and the proportion of refined beet sugar processed by cooperatives increased from 65 percent in 1999 to 93.4

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[42] CR at V-6, PR at V-4, CR/PR at Table V-2.

[43] CR/PR at Table V-2.

[44] CR/PR at Table V-2. This assumes that the import value would not have been lower than the current safeguard duty trigger of 15.88 cents per pound.

[45] Indeed, an industry analysis of current rising prices notes that sugar price futures are trending downward and that "the immediate upside potential for pries may be limited." Sugar Commodity Bulletin, LMC International (Aug. 2005).

[46] CR/PR at Table C-1.

[47] CR/PR at Table II-2.

[48] CR at II-5, PR at II-3.

[49] CR/PR at Table I-12, Transcript at 85-86.

[50] Domestic Industry's Prehearing Brief at 40.

[51] CR/PR at Table C-1.

[52] CR at I-34-38, PR at I-25-28.

percent in 2004.[53] According to domestic producers, the increased grower investments in cooperatives have increased their vulnerability by increasing their debt burden and exposing them to the vagaries of the refined sugar market.[54]

Based on the record evidence, I find that these conditions of competition are not likely to change significantly in the reasonably foreseeable future. Accordingly, I find that these current conditions provide me with a reasonable basis upon which to assess the likely effects of revocation of the antidumping duty findings and countervailing duty order within the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the findings and order under review are revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[55] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[56]

Imports from Belgium, France, and Germany on which the Commission based its injury determination in the original antidumping investigations were 121,000 st in 1978.[57] The Commission found that these imports had taken sales from domestic cane millers, resulting in forfeiture of about 40 percent of their 1977/78 crop to the CCC.[58] In the original determination concerning the European Community, the Commission found that the EC had over 5 million st of sugar available for export from the 1981/82 crop, an amount which almost equaled total U.S. imports for 1981. It reasoned that, because the United States was the world's second largest importer of sugar, the EC would target the United States market if the existing countervailing duty order were revoked.[59]

U.S. imports from the EU were minimal during the current review period, as during the first review period, likely due to the restraining effects of the findings and order, as well as the TRQ, although they did increase from 303 st in crop year 1999 to 903 st in crop year 2004.[60] Total EU exports during the review period, however, ranged from 5.2 million st in 2003/04 to 7.3 million st in 2000/01 and thus were at or higher than levels found to threaten injury in the 1981 case.[61] Given that sugar is a highly substitutable commodity product and that a relatively small increase in total imports would upset the precarious supply-demand balance under the U.S. sugar program, cause price declines, and possibly lead to forfeitures to the CCC, I find sufficient evidence on the record of this review, as described below, to

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[53] Domestic Industry's Prehearing Brief at 43-44.

[54] Domestic Industry's Posthearing Brief at 13; Transcript at 49-50, 114-15.

[55] 19 U.S.C. § 1675a(a)(2).

[56] 19 U.S.C. § 1675a(a)(2)(A)-(D). There is no potential for product-shifting in these reviews, because sugar can only be produced in dedicated facilities.

[57] CR/PR at Table I-1.

[58] BF&G Original Determinations at 4-5.

[59] EU Original Determination at 8-9.

[60] CR/PR at Table IV-3.

[61] CR/PR at Table IV-11.

indicate that the volume of cumulated subject imports would likely be significant in the reasonably foreseeable future if the findings and order are revoked.

As described in conditions of competition, the EU is the second largest producer and exporter of sugar in the world. The current EU sugar regime encourages production in excess of consumption through, *inter alia*, a guaranteed minimum price that far exceeds either the world price or the U.S. price. Moreover, the WTO recently found that all EU sugar, even export-only C sugar, benefits from the high subsidy. At the current EU intervention price of 34.62 cents per pound, the subsidy, if spread across A, B, and C sugar, would amount to around 32 cents per pound for all EU sugar.[62] EU sugar for export, in short, is virtually indifferent to the price at which it is sold.

The amount of surplus EU production available for export has increased significantly, not only since the time of the Commission's original determinations, but since the first sunset review, due to the enlargement of the EU from 15 to 25 members on May 1, 2004. Harvested acreage and sugar beet production in the EU-25 are expected to increase by 30 and 21 percent, respectively.[63] EU production was at 18.195 million st in 2003/04, and is estimated at 23.822 million st for 2004/05 and 22.537 million st for 2005/06.[64] The enlargement means not only an increase in EU production of refined sugar, but also an increase in EU production relative to consumption. USDA estimates that EU production in excess of consumption will be 3.9 million mt in 2004/05, an increase of more than one million mt from a level of 2.6 million mt of EU production in excess of consumption in 2003/04.[65] This indicates additional EU sugar available for export.

In addition to increased EU production and an increase in EU production relative to consumption, EU enlargement has boosted EU carry-over stocks to nearly 300,000 tons, with projections that they could rise to 500,000 to 800,000 tons in the imminent future.[66] These additional stocks would further increase the EU's oversupply of sugar. Under the EU sugar regime, excess sugar may not be marketed in the EU, but rather must be exported.[67]

Sugar imports into the EU are also projected to begin increasing, which will likewise add to the EU over-supply. As described in conditions of competition, the EU gives preferential access to Lomé Convention ("ACP") countries. In addition, it is implementing a phase-out of sugar import tariffs on sugar from the least developed countries under its "Everything But Arms" initiative; it has granted additional quota amounts to sugar from Brazil and Cuba; and it has agreed to duty-free access for sugar imports from the Balkan countries.[68]

Key EU export markets have traditionally included countries in North Africa and the Middle East, specifically Algeria, Israel, Libya, Syria and the United Arab Emirates, as well as Switzerland. The EU's exports to its traditional export markets in the Middle East and North Africa declined by 727,488 st

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[62] At current EU production levels, C sugar represents approximately 10.6 percent of total EU production. CR/PR at Table IV-7. Although in practice only A and B sugar are guaranteed the 34.62 cents per pound, if C sugar were deemed to be benefitting indirectly from the subsidy, as the WTO has found, then A, B, and C sugar together, at current production levels, would be subsidized at approximately 32 cents per pound, assuming the C sugar sold at the current world price of 12 cents per pound (derived from data in CR/PR at Tables IV-5, IV-7, V-2).

[63] CR at IV-16, PR at IV-13, CR/PR at Table IV-8.

[64] CR/PR at Tables IV-10-11.

[65] Domestic Industry's Posthearing Brief, Responses to Commission Questions at 66.

[66] CR at IV-10, n.9, IV-20, n.26; PR at IV-9, n.9, IV-15, n.26; Domestic Industry's Posthearing Brief at Exhibits 25, 27; Sugar and Sweeteners Outlook, ERS, USDA at 30 (May 31, 2005); see also CR/PR at Table IV-11 (showing total EU stocks at 4.3 million st in 2003/04 and 5.2 million st in 2004/05).

[67] CR at IV-13, PR at IV-11.

[68] Domestic Industry's Posthearing Brief at 7, Responses to Commission Questions at 66.

(24.6 percent) between 1999 and 2004.[69] EU exports to some of these markets have declined due to investment by these countries in their own raw sugar refineries.[70] The record does not indicate that, were EU supply available for export to increase, as appears likely, these traditional EU markets could absorb a significant quantity of that excess supply. The supply would thus be available to other major consuming markets such as the United States. Indeed, the record indicates that other large sugar exporting countries, such as Brazil, Thailand, India, and Australia, compete with the EU in its major export markets.[71]

Transportation advantages make the United States an attractive market for EU sugar, according to the domestic industry. Distribution systems are already in place and ocean transportation costs to the United States are lower than the costs to certain other countries.[72]

There are significant barriers to EU imports in other countries, including a CVD order by Canada and the following tariffs on refined sugar from the EU: Russia, 50 percent; Japan, 71 percent; China, 75 percent; and Mexico, 172 percent.[73]

In short, because EU producers are encouraged to over-produce and EU exports are virtually indifferent to the price at which they are sold, I conclude from the evidence on this record that EU exports to the United States would increase significantly if the findings and order were revoked, given the current indicators of additional EU supply in excess of consumption, the decrease in EU exports to its traditional markets, and the availability of the U.S. market as a major importer of sugar.

An additional factor that leads me to conclude that the likely volume of EU sugar would be significant absent the findings and order is the volatility of sugar prices, both on the world market and the U.S. market, due to the nature of sugar as a highly substitutable, commodity product. As described in conditions of competition, I see no clear upward or downward trend in prices over the review period. I note that there have been several periods during the review period when the EU would have realized a higher return in the United States, even with the tier II duty, than at the world price, notwithstanding that at the end of the review period the price gap did not favor the U.S. market over the world market. During the last three quarters of 1999, the last quarter of 2002, and the first two quarters of 2003, however, the price gap was favorable.[74] By month, these periods were March through December 1999, September 2002 through January 2003, March through July 2003, and October 2003.[75] In certain months when the price gap was favorable, the tier II imports (from all countries) were higher than in months when the price gap was not favorable.[76] Moreover, certain industry analysts predict, for the reasonably foreseeable future, a world price that is lower than the current price and some recovery in the U.S. price, suggesting that, with tier II duties expected to decline, the gap would reverse itself to the point that the EU would realize a higher return at the U.S. price than at the world price.[77] I thus find it reasonable to conclude, given price movements over the review period, that in the reasonably foreseeable future the price gap between the U.S. price and the world price will once again favor the U.S. market, providing additional support for my finding of a likely significant volume of subject imports absent the findings and order.

Since the findings and order were imposed, the level of imports from the EU has been minimal. However, it would take only a relatively small increase in the volume of imports from the EU to disrupt

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[69] CR at IV-20-27, PR at IV-17-25, CR/PR at Table IV-12.

[70] Prehearing CR/PR at IV-15-16.

[71] See Domestic Industry's Posthearing Brief at Exhibits 1, 2, 5.

[72] Domestic Industry's Posthearing Brief, Responses to Commission Questions at 66-67; Transcript at 111, 163.

[73] CR at IV-27-28, PR at IV-25; Domestic Industry's Posthearing Brief, Responses to Commission Questions at 67.

[74] CR/PR at Table V-2.

[75] Domestic Industry's Posthearing Brief, Exhibit 6.

[76] Official Commerce statistics.

[77] U.S. Sugar Industry's Posthearing Brief, Responses to Commission Questions at 15-21.

the U.S. sugar market, even with the current U.S. sugar program in place. As noted, in the original investigations on imports from Belgium, France, and Germany, the Commission found injury to a U.S. industry when subject imports were 121,000 st. Absent the findings and order, an increase in EU supply available for the U.S. market would be likely to occur, assuming no immediate, drastic reform of the EU sugar regime, given current and projected levels of increased EU production in excess of consumption, existing carry-over stocks at a level of at least 300,000 tons, increased sugar imports into the EU, the decline in the EU's exports to its traditional markets, import barriers in other countries, and a continued high EU price support/subsidy, which encourages over-production and exports and makes EU producers essentially indifferent to the export price they receive. Moreover, given the volatility of sugar prices, it is likely that the gap between the U.S. price and the world price will return to a level in the reasonably foreseeable future such that EU exports, absent the CVD/AD duties, would earn a higher return in the U.S. market than at the world price, even with the tier II tariff.

Finally, even a relatively small increase in EU over-quota exports to the United States could increase imports to above the trigger level of 1.532 million st. This could lead to marketing allotments being suspended and blocked stocks released for sale, forcing U.S. prices downward and the forfeiture of sugar to the CCC, as has occurred during the review period.

In light of the foregoing, I conclude that the volume of cumulated subject imports from Belgium, France, Germany, and the EU would likely be significant within a reasonably foreseeable time if the antidumping findings on sugar from Belgium, France, and Germany, and the countervailing duty order on sugar from the EU are revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping findings and countervailing duty order are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.[78]

In its original determinations concerning sugar from Belgium, France, and Germany, the Commission found that subject imports undersold the domestic product by an average of 0.42 cent per pound, as a consequence of which Southeast regional producers were unable to sell a substantial portion of their raw sugar at a price equal to or greater than either the loan rate or their cost of production, resulting in forfeitures to the CCC.[79] In the original determination concerning sugar from the European Community, the Commission found that the domestic industry, which it characterized as just starting to recover, would again be threatened with material injury by a large influx of imports from the European Community if the order were revoked.[80]

As discussed above, because sugar is a fungible commodity product, the domestic sugar market remains today as price sensitive as it was at the time of the original determinations. Thus, small differences in price are sufficient to induce purchasers to switch suppliers, as the Commission found in 1979.[81] Due to the minimal volumes of current imports from Belgium, France, Germany and the European Union, as well as the lack of participation in these reviews by EU producers, there is no

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[78] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[79] BF&G Original Determinations at 4-5.

[80] EU Original Determination at 4, 9.

[81] BF&G Original Determinations at 5.

meaningful current pricing or average unit value information on such imports. In any event, the focus in five-year reviews is on the likely price effects of subject imports if the relevant findings and order were revoked.

In the first reviews, the Commission found that, because sugar is a commodity product sold primarily on the basis of price, EU producers would be likely to price their sugar below the prevailing U.S. price in order to induce U.S. refined sugar purchasers to switch from domestic sugar or third country imports to sugar from the EU.

As discussed in volume, absent the CVD/AD duties, additional volumes of refined sugar from the EU would be likely due to over-supply in the EU (given the evidence on the record of, *inter alia*, increased production in excess of consumption, increased imports into the EU, increased surplus stocks, and a decline in EU exports to its traditional markets). Because sugar is a highly substitutable, commodity product, even a small price difference, of less than one cent per pound, can cause customers to switch suppliers.[82] As the Commission found in the first review, EU producers would likely price their sugar slightly lower than the U.S. price in order to induce purchasers to switch from domestic sugar or third country imports to sugar from the EU and thereby increase their U.S. market share.[83]

The additional volumes from the EU would likely lower U.S. prices for all domestic producers, whether or not they actually lost sales volume to the EU product. According to the domestic industry, the addition in 2000 of 300,000 to 400,000 tons of imported sugar to U.S. supply resulted in a price decline of 30 percent.[84] As discussed in the volume section, EU surplus stocks alone are currently at a level of approximately 300,000 tons, with predictions that they could increase to 500,000 to 800,000 tons in the near future.

The additional volumes, as discussed above, could also lead to forfeitures to the CCC, resulting, not only in depressed prices for U.S. producers, but a cost to the U.S. government.

Accordingly, I conclude that, absent the findings and order, a significant volume of imports from the EU is likely to enter the United States at prices that would have a significant adverse effect on prices for the domestic like product.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the findings and order are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like

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[82] CR/PR at Table II-3; Domestic Industry's Posthearing Brief at 14; Transcript at 27-28.

[83] Absent the existing AD/CVD duties, at certain times during the current review period EU producers could have offered a price that was lower than the U.S. price but higher than the safeguard duty trigger of 15.88 cents per pound. For example, in April-June 2003, the U.S. price was 27.9 cents per pound and the world price was 9.9 cents per pound. CR/PR at Table V-2. Even with the tier II duty of 16.21 cents per pound, EU producers would have earned a return in the U.S. market of 1.8 cents per pound. U.S. customers could thus have been offered a price of 26.9 cents per pound (one cent below the U.S. price, assuming the tier II duty would not have been passed on to the customer), and EU producers would still have earned a higher return (of 0.8 cent per pound) than if sold at the world price.

[84] Transcript at 56.

product.[85] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[86] As instructed by the statute, I have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping findings or countervailing duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.[87]

In its original determinations concerning sugar from Belgium, France, and Germany, the Commission found that subject imports displaced domestic sales through underselling, causing domestic producers to build up inventories and suffer financial losses. The Commission further determined that the industry's losses would have been worse but for the ability to forfeit production to the CCC at the loan rate.[88] In its original determination with respect to sugar from the European Community, the Commission found that the domestic industry's production and capacity utilization were beginning to recover, and inventories were declining, but that the industry would be threatened with material injury if the countervailing duty order on sugar from the European Community were revoked.[89]

I find that the U.S. industry is vulnerable to material injury if the findings and order are revoked. While the industry's overall financial performance was positive during most of the review period, many performance indicators declined, including capacity, the quantity and value of U.S. shipments, net sales quantity and value, number of workers, and capital expenditures.[90] The industry's operating margin was significantly lower during this review period than during the first review period,[91] when the Commission also found the industry to be vulnerable. The vast majority of processors and refiners reported revenues from byproduct sales, and certain processors reported no raw material costs because they are cooperatives. When these factors are taken into account in assessing the industry's financial performance, the industry's net income and net income margin as a percentage of net sales are lower than its operating

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[85] 19 U.S.C. § 1675a(a)(4).

[86] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its final five-year review determinations, Commerce determined that the magnitude of the dumping margins that are likely to prevail if the antidumping findings are revoked are 103 percent for Belgium, 102 percent for France, and 121 percent for Germany. 70 Fed. Reg. 17231 (April 5, 2005). Although the statute does not expressly define the "magnitude of the net countervailable subsidy" to be used by the Commission in five-year reviews, it states that "[t]he administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated." 19 U.S.C. §1675a(b)(3). In its final five-year review determination, Commerce determined that the magnitude of the countervailable subsidy that is likely to prevail if the countervailing duty order on sugar from the European Union is revoked is 21.73 cents per pound. CR at I-10, PR at I-8.

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

[88] BF&G Original Determinations at 4-5.

[89] EU Original Determination at 4, 9.

[90] CR/PR at Table C-1. From 1999 through 2004, the industry's capacity declined by 6.7 percent; the quantity of U.S. shipments, by 0.8 percent; the value of U.S. shipments, by 3.6 percent; net sales quantity, by 2.2 percent; net sales value, by 3.6 percent; number of workers, by 20.9 percent; and capital expenditures, by 39 percent.

[91] CR/PR at Table I-1.

income and margins. The industry showed a negative net income margin in 2001 of (0.4) percent.[92] The decrease in the industry's operating income and operating income as a ratio to net sales during portions of the review period was due to decreased unit sales values. Indeed, U.S. prices, although fluctuating over the review period, were generally lower at the end of the period than at the beginning.[93] The industry's performance during the review period is an indication of its extreme sensitivity to price changes in the U.S. market, even with the U.S. sugar program in place.

Moreover, as discussed above, the U.S. sugar program mandates a minimum level of imports, regardless of U.S. demand and U.S. production levels, and U.S. producers are subject to marketing allotments. Import levels without EU sugar have come close in recent years to the level at which marketing allotments are no longer in effect, allowing U.S. producers to release surplus stocks into the market, which results in lower prices and forfeitures to the CCC.[94] Even if increased imports do not result in forfeitures, given sugar's commodity nature and extreme price sensitivity, even a modest increase in imports from the EU would depress U.S. prices. A decline in prices would likely result in a drop in the domestic industry's income and in certain growers, refiners and millers going out of business.

The likely significant volume of subject imports and their likely adverse price effects if the findings and order are revoked would likely result in substantial declines in the industry's production, shipments, capacity utilization, employment, profitability, and return on investment. Therefore, I conclude that revocation of the antidumping findings and countervailing duty order would be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and likely negative effects on the domestic industry's development and production efforts within a reasonably foreseeable time.

II. CONCLUSION

For the foregoing reasons, I determine that revocation of the antidumping findings on imports of sugar from Belgium, France, and Germany, and the countervailing duty order on imports of sugar from the European Union would be likely to lead to continuation or recurrence of material injury to the U.S. industry within a reasonably foreseeable time.

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[92] CR/PR at Table III-7.

[93] CR/PR at Table V-2; see CR/PR at Table V-1.

[94] The existence of a likely burden on a government support program is not necessary to support an affirmative determination, however. See S. Rep. No. 249, 96th Cong., 1st Sess. at 88 (1979) ("Agricultural producers may well be materially injured by reason of subsidized or dumped imports when prices are well above the minimum support level."); Atlantic Sugar, Ltd. v. United States, 519 F. Supp. 916, 922 (Ct. Int'l Trade 1981) (lack of any increased burden on government price-support program "would not necessarily detract from an injury determination which was based on the impact of the imports on the producers themselves").

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On September 1, 2004, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted reviews to determine whether revocation of the countervailing duty order on sugar from the European Union ("EU") and/or revocation of the antidumping findings on sugar from Belgium, France, and Germany would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective December 6, 2004, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the reviews is provided in the following tabulation.[1]

Effective date	Action
July 31, 1978	Department of the Treasury's countervailing duty order (43 FR 33237)
June 13, 1979	Department of the Treasury's antidumping findings (44 FR 33878)
October 28, 1999	Commerce's continuation of antidumping findings and countervailing duty order (64 FR 58033)
September 1, 2004	Commission's institution of second five-year reviews (69 FR 53466)
December 6, 2004	Commission's decision to conduct full reviews (69 FR 75568, December 17, 2004)
January 19, 2005	Commission's scheduling of the reviews (70 FR 5480, February 2, 2005)
March 25, 2005	Commerce's preliminary results of full countervailing duty order review (70 FR 15293)
April 5, 2005	Commerce's final results of expedited antidumping findings reviews (70 FR 17231)
June 28, 2005	Commission hearing[1]
August 4, 2005	Commerce's final results of full countervailing duty order review (70 FR 44896)
August 11, 2005	Commission's vote
August 29, 2005	Commission's determinations transmitted to Commerce

[1] A list of hearing witnesses is presented in appendix B.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

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

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

[1] The Commission's notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission's web site (internet address *www.usitc.gov*). Commissioners' votes on whether to conduct expedited or full reviews may also be found on the web site.

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding . . ., (Commerce's findings) regarding duty absorption . . ..

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

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

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." Information obtained during the course of these reviews that relates to the above factors is presented throughout this report.

SUMMARY DATA

A summary of data collected in these reviews is presented in appendix C. U.S. industry data in this appendix are based on the questionnaire responses of 14 U.S. sugar processing firms that together accounted for 100 percent of U.S. refined sugar production in 2004. U.S. import data in the appendix are based on official Commerce statistics. Table I-1 presents a summary of select data collected in the original investigations, in the Commission's first five-year reviews, and in the present reviews. As indicated in this table, subject imports have been virtually non-existent since imposition of the countervailing duty order against the European Union in 1978, while U.S. producers' production and share of the market have increased substantially.

Responses by U.S. producers, importers, and purchasers of sugar to a series of questions concerning the significance of the existing antidumping findings and countervailing duty order, as well as the likely effects of revocation, are presented in appendix D.

THE ORIGINAL INVESTIGATIONS

On February 16, 1979, the Commission received advice from the Department of the Treasury (Treasury) that sugar from Belgium, France, and Germany was being, or was likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160(a)). Treasury's investigations resulted from a complaint filed on July 10, 1978 by counsel for the Florida Sugar Marketing and Terminal Association, Inc., alleging that the sugar industry in Florida was being injured by reason of lost sales in its regional market as a result of importation of raw and refined sugar from Belgium, France, and Germany. On March 1, 1979, the Commission instituted an investigation under section 201(a) of the Antidumping Act of 1921 to determine whether an industry in the United States was being injured, was likely to be injured, or was prevented from being established by reason of the importation of sugar from Belgium, France, and Germany.[2]

On May 16, 1979, the Commission issued a determination that a regional industry in the Southeastern United States was being injured by reason of the importation of sugar from Belgium,

[2] *Sugar From Belgium, France, and West Germany, Determinations of Injury in Investigations Nos. AA1921-198, AA1921-199, and AA1921-200 Under the Antidumping Act, 1921, as Amended ("Original Antidumping Determinations"),* USITC Publication 972, May 1979, p. A-3.

Table I-1
Sugar: Summary data from the original investigations, first reviews, and current reviews, 1978-1981 and 1997-2004
(Quantity=*1,000 short tons raw value*; value=*$1,000*; unit values, unit labor costs, and unit financial data are *per short ton*)

Item	1978	1979	1980	1981	1997	1998	1999	2000	2001	2002	2003	2004
U.S. consumption quantity: Amount	10,882	10,749	10,493	10,050	9,578	9,684	11,512	11,789	11,674	11,000	11,387	11,261
Producers' share[1]	50.2	53.2	55.1	51.5	76.7	77.0	84.1	87.3	87.1	87.1	86.0	85.3
Importer's share:[1]												
Belgium	0.2	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
France	0.5	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Germany	0.3	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Other EU	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total EU	1.1	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
All other countries[1]	48.7	46.8	44.9	48.5	33.3	23.0	15.9	12.7	12.8	12.9	14.0	14.7
Total imports[1]	49.8	46.8	44.9	48.5	33.3	23.0	15.9	12.7	12.8	12.9	14.0	14.7
U.S. import quantity from--												
Belgium:	26	(3)	(3)	(3)	(3)	(3)	(3)	(3)	1	(3)	(3)	(3)
France	56	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Germany	36	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Other EU	2	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Total EU	121	(3)	(3)	(3)	(3)	(3)	(3)	1	1	1	(3)	1
Other sources	5,298	5,026	4,716	4,870	3,191	2,229	1,828	1,495	1,500	1,423	1,598	1,658
All sources	5,419	5,026	4,716	4,870	3,191	2,229	1,828	1,495	1,500	1,423	1,598	1,659

Table continued on next page.

Table I-1--*Continued*
Sugar: Summary data from the original investigations, first reviews, and current reviews, 1978-1981 and 1997-2004–*Continued*
(Quantity=*1,000 short tons raw value*; value=*$1,000*; unit values, unit labor costs, and unit financial data are *per short ton*)

Item	1978	1979	1980	1981	1997	1998	1999	2000	2001	2002	2003	2004
U.S. producers'-- Capacity	(4)	(4)	(4)	(4)	10,445	10,435	11,796	11,400	11,280	10,487	10,721	11,004
Production[5]	5,992	6,126	5,718	6,005	8,827	8,893	9,436	10,006	9,768	9,685	9,819	9,789
Capacity utilization[1]	(4)	(4)	(4)	(4)	84.5	85.2	80.0	87.8	86.6	92.3	91.6	89.0
Production workers	15,045	14,465	14,616	14,969	10,826	10,793	11,105	11,160	10,598	11,232	9,378	8,786
Hours worked (*1,000 hours*)	31,682	30,776	30,906	31,441	20,920	20,812	23,850	24,289	22,492	21,196	19,956	18,875
Wages paid ($1,000)	217,628	233,530	247,389	267,427	339,159	347,070	382,993	398,997	379,933	373,217	369,392	359,732
Productivity (*short tons per hour*)	0.10	0.11	0.09	0.10	0.41	0.42	0.40	0.41	0.43	0.46	0.49	0.52
Cane millers: Net sales value	(4)	(4)	(4)	(4)	1,034,080	1,082,491	1,531,402	1,489,262	1,596,218	1,623,082	1,621,748	1,531,668
Operating income/ sales[1]	(4)	(4)	(4)	(4)	2.3	4.2	6.5	4.3	5.2	5.4	0.7	2.4
Processors/refiners:[6] Net sales value	2,229,915	2,607,258	3,694,027	4,630,552	5,442,074	5,142,513	5,036,664	4,903,692	4,573,893	4,661,534	4,933,099	4,854,185
Operating income/ sales[1]	1.4	1.7	5.5	8.4	13.5	9.7	6.0	5.5	2.7	4.4	4.1	6.2

[1] In *percent*.
[2] Less than 0.5 percent.
[3] Less than 500 short tons.
[4] Unavailable.
[5] U.S. production data for 1978-1981 do not correspond to the producers' share of apparent consumption presented above due to inconsistent data sources in the original investigations.
[6] Beet processors' financial data for 1978-1981 include only non-cooperative firms.

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

Source: Data for 1978-1981 are compiled from information collected in the Commission's original countervailing duty investigation: *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982. Data for 1997 and 1998 are compiled from information collected in the Commission's first reviews: *First Reviews Staff Report*, Memorandum INV-W-188, August 19, 1999. Data for 1999-2004 are compiled from data submitted in response to Commission questionnaires in the present reviews and from official Commerce statistics.

France, and Germany.[3] On June 13, 1979, Treasury issued antidumping findings on imports of sugar from Belgium, France, and Germany with the following margins:[4]

Country-wide rate	Weighted-average margin (*percent*)
Belgium	103
France	102
Germany	121

On July 31, 1978, Treasury issued a final determination that exports of sugar from the European Community ("EC")[5] benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended. Treasury's investigation resulted from a petition filed on June 16, 1978, alleging that export restitution payments[6] made to producers of sugar in the EC constituted a bounty or grant within the meaning of section 303 of the Act.[7] Treasury's determination resulted in the imposition of a countervailing duty order in the amount of 10.80 cents per pound of sugar, based on the average maximum level of restitution payments set by the EC for sugar exports in the first half of 1978.[8]

In January 1980, the provisions of the Trade Agreement Act of 1979 became effective, and the authority for administering the countervailing duty statute was transferred from Treasury to the Department of Commerce ("Commerce"). On March 28, 1980, the Commission received a request from the Delegation of the Commission of the EC that it conduct an investigation to determine whether an industry in the United States would be materially injured if the countervailing duty order on sugar from the EC were to be revoked.[9] The Commission instituted its review on January 27, 1982.[10] On May 14, 1982, the Commission issued a determination that an industry in the United States would be threatened

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[3] *Sugar From Belgium, France, and West Germany; Determination of Injury*, 44 FR 29992, May 23, 1979. In its determination, the Commission found that the industry being injured consisted of facilities in Florida producing sugar cane and raw cane sugar.

[4] *Antidumping; Sugar From Belgium, France, and the Federal Republic of Germany*, 44 FR 33878 (June 13, 1979). *See also* Commerce's *Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Findings on Sugar from Belgium, France, and Germany; Final Results*, March 30, 2005.

[5] At the time of Treasury's original countervailing duty determination, the European Community consisted of nine countries: Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom. Greece joined the EC in 1981, followed by Portugal and Spain in 1986. In 1992, as a result of the Treaty of Maastricht, the EC came to be known as the European Union. Austria, Finland, and Sweden joined the EU in 1995, taking the total number of member countries to 15. On May 1, 2004, ten new member states acceded to the EU (*see* fn. 114, below).

[6] A full description of the nature and components of the European Union's sugar program, which has remained largely unchanged since Treasury's original investigation, is presented in Part IV of this report.

[7] Treasury Determination 78-253, *Final Countervailing Duty Determination*, 43 FR 33237 (July 31, 1978). Neither Treasury's final determination, nor its notice of initiation, identified the petitioner(s) in its countervailing duty investigation.

[8] Under the provisions of section 303 of the Tariff Act of 1930, a Commission injury determination was not required for imposition of a countervailing duty order.

[9] Section 104(b) of the Trade Agreements Act of 1979 provides that, upon the request of a government or group of exporters of merchandise covered by a countervailing duty order, the Commission must conduct an investigation to determine whether an industry in the United States would be materially injured, threatened with material injury, or whether the establishment of an industry would be materially retarded, if the order were to be revoked.

[10] *Sugar From The European Communities; Countervailing Duty Investigation*, 47 FR 5058 (February 3, 1982).

with material injury by reason of imports of sugar from the EC if the countervailing duty order were to be revoked.[11]

THE FIRST FIVE-YEAR REVIEWS

On January 7, 1999, the Commission determined that it would conduct full reviews of the antidumping findings on sugar from Belgium, France, and Germany, and the countervailing duty order on sugar from the European Union.[12] On February 4, 1999, Commerce published the final results of its expedited reviews of the antidumping findings on sugar from Belgium, France, and Germany, finding that revocation would likely lead to a continuation or recurrence of dumping at the following rates:

Country-wide rate	Weighted-average margin (*percent*)
Belgium	103
France	102
Germany	121

On August 30, 1999, Commerce notified the Commission of the final results of its full review of the countervailing duty order on sugar from the European Union, determining that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy totaling 23.69 cents per pound to sugar exported from the European Union.

On September 15, 1999, the Commission determined that revocation of the antidumping findings on sugar from Belgium, France, and Germany would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that revocation of the countervailing duty order on sugar from the European Union would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[13] Notice of continuation of the order and findings was published by Commerce on October 28, 1999.[14]

RELATED INVESTIGATIONS

In March 1979, the Commission determined that an industry in the "Northeastern States region" of the United States was materially injured by reason of imports of sugar and syrups from Canada that Treasury had determined were being, or were likely to be, sold in the United States at less than fair value.[15] Commerce subsequently imposed an antidumping duty order on imports of sugar and syrups

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[11] *Sugar From the European Communities*, 47 FR 23057 (May 26, 1982).

[12] *Sugar from the European Union; Sugar from Belgium, France, and Germany; Sugar and Syrups From Canada*, 64 FR 4901 (February 1, 1999).

[13] *Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups From Canada*, 64 FR 54355 (October 6, 1999).

[14] *Continuation of Antidumping Findings on Sugar from Belgium, France and Germany and Countervailing Duty Order on Sugar from the European Community*, 64 FR 58033 (October 28, 1999).

[15] *Sugars and Sirups from Canada, Determination of Material Injury in Investigation No. 731-TA-3 (Final)*, USITC Publication 1047, March 1980, p. 3. The Commission defined the regional industry in this investigation as domestic producers of refined sugar located in the states of Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. Ibid., p. 8.

from Canada.[16] On October 1, 1998, the Commission instituted a review of the order on sugar and syrups from Canada, concurrent with its first reviews of the findings on sugar from Belgium, France, and Germany, and the order on sugar from the European Union. On September 15, 1999, the Commission determined that revocation of the antidumping duty order on sugar and syrups from Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[17] Commerce accordingly revoked the order on October 28, 1999.[18]

COMMERCE'S RESULTS OF EXPEDITED AND FULL REVIEWS

On April 5, 2005, Commerce published the final results of its expedited sunset reviews of the antidumping findings on sugar from Belgium, France, and, Germany, determining that revocation of the findings would likely lead to continuation or recurrence of dumping as follows:[19]

Country-wide rate	Weighted-average margin (*percent*)
Belgium	103
France	102
Germany	121

On August 4, 2005, Commerce published the final results of its full sunset review of the countervailing duty order on sugar from the European Union, finding that revocation would be likely to lead to continuation or recurrence of a net countervailable subsidy of 21.73 cents per pound.[20]

Commerce has issued no duty absorption determinations with respect to either the antidumping findings or the countervailing duty order under review.

COMMERCE'S ADMINISTRATIVE REVIEWS

Between 1979 and 1984, Commerce conducted four administrative reviews of the antidumping findings on sugar from Belgium, France, and Germany. In each instance, the resulting antidumping margins remained unchanged from those prevailing at the time the findings were first issued. No further administrative reviews of the findings have been conducted by Commerce since 1984. On August 5, 1996, Commerce published the results of a changed circumstances review of the antidumping finding on

[16] *Antidumping Duty Order; Sugars and Syrups From Canada*, 45 FR 24126 (April 9, 1980). The Commission's 1980 determination was appealed to the U.S. Court of International Trade ("CIT"), and after three remands, the CIT vacated the Commission's affirmative determination. The Commission appealed to the Federal Circuit, which reversed the CIT and reinstated the Commission's affirmative determination. *Sugar from the European Union; Sugar From Belgium, France, and Germany; and Sugar and Syrups from Canada, Investigations Nos. 104-TAA-7 (Review); AA1921-198–200 (Review); and 731-TA-3 (Review) ("First Review Determinations")*, USITC Publication 3238, September 1999, p. 3.

[17] *Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups From Canada*, 64 FR 54355 (October 6, 1999).

[18] *Revocation of Antidumping Duty Order: Sugar and Syrups From Canada*, 64 FR 58035 (October 28, 1999).

[19] *Sugar From Belgium, France, and Germany; Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Findings*, 70 FR 17231 (April 5, 2005).

[20] *Sugar from the European Community; Final Results of the Full Sunset Review of the Countervailing Duty Order*, 70 FR 44896 (August 4, 2005).

sugar from France, revoking the order with respect to homeopathic sugar pellets.[21] The antidumping findings remain in place for all other sugar exports from France, and for all exports of sugar from Belgium and Germany.

Commerce has conducted four administrative reviews of the countervailing duty order on sugar from the European Union, covering periods between 1979 and 1988. The results of these reviews are presented in table I-2. Commerce has not conducted any administrative reviews of the countervailing duty order on sugar from the European Union since 1990.

Table I-2
Sugar from the European Union: Results of Commerce's administrative reviews, 1979-present

Period of review	Date results published	Margin (*cents per pound*)
July 1, 1979 to June 30, 1980	September 23, 1981 (46 FR 46984)	3.5
July 1, 1980 to June 30, 1981	August 2, 1983 (48 FR 35001)	7.1
July 1, 1981 to June 30, 1982	November 14, 1984 (49 FR 45039)	10.45
January 1, 1988 to December 31, 1988	August 31, 1990 (55 FR 35703)	10.45

Source: Cited *Federal Register* notices.

DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET ACT FUNDS

Under the provisions of the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA" - commonly known as the "Byrd Amendment,") duties assessed pursuant to an antidumping or countervailing duty order, or antidumping finding, are distributed on an annual basis to "affected domestic producers."[22] Since enactment of the CDSOA, only one U.S. sugar producer, Hawaiian Commercial and Sugar, has qualified for distribution of duties collected on imports of sugar from any European Union member-state. The company received disbursements of $8,060 in 2001, $17,276 in 2002, and $487 in 2003, all from duties collected pursuant to the countervailing duty order on sugar from the European Union. No CDSOA funds relating to these reviews have been distributed for fiscal year 2004.[23]

In fiscal year 2004, the U.S. Customs And Border Protection ("Customs") collected $190 in countervailing duties relating to the imports of sugar from the EU, and $162,932 in antidumping duties

[21] *Sugar From France: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Finding*, 61 FR 40609 (August 5, 1996). Commerce instituted a changed circumstances review in response to a request from Boiron-Borneman, Inc., a French manufacturer of homeopathic medicines. Commerce partially revoked the antidumping finding based on lack of interest from domestic interested parties in maintaining the finding on homeopathic sugar pellets produced in France.

[22] Under the provisions of the CDSOA (19 U.S.C. 1675(c)), the term "affected domestic producer" refers to any producer or worker representative that (1) was a petitioner or interested party in support of the petition leading to imposition of an antidumping or countervailing duty order, or antidumping finding, and (2) remains in operation.

[23] Customs' *CDSOA Annual Disbursement Reports* 2001-2004, retrieved at *www.customs.gov/xp/cgov/import/add_cvd/cont_dump/*.

relating to sugar imported from Belgium ($8,664), France ($145,403), and Germany ($8,865).[24] Subsequent to liquidation, there are currently $370 in countervailing duties and $6,341 in antidumping duties relating to these reviews available for disbursement to affected domestic sugar producers. No claims have been received by Customs for disbursements of CDSOA duties collected pursuant to the order and findings under review in fiscal year 2004.[25]

THE SUBJECT PRODUCT

The imported products subject to the antidumping findings on sugar from Belgium, France, and Germany, as defined by Commerce, are "shipments of sugar, both raw and refined, with the exception of specialty sugars."[26] As noted above, the finding on sugar from France excludes homeopathic sugar pellets, subject to certain criteria.[27] Imported products subject to the countervailing duty order on sugar from the European Union are defined by Commerce as "shipments of sugar from the European Community."[28] Speciality sugars are exempt from this order as well. In June 1990, Commerce issued a scope clarification memorandum, determining that blends of sugar and dextrose (a corn-derived sweetener) with a sugar content of at least 65 percent are within the scope of the order.[29]

Sugar subject to the antidumping findings and countervailing duty order under review are currently classifiable under the same following subheadings of the Harmonized Tariff Schedule of the United States (HTS):

(*Raw cane sugar*)	(*Raw beet sugar*)	(*Colored/flavored sugar*)	(*"Other" sugar*)
1701.11.05	1701.12.05	1701.91.05	1701.99.05
1701.11.10	1701.12.10	1701.91.10	1701.99.10
1701.11.20	1701.12.50	1701.91.30	1701.99.50
1701.11.50			

(*Fructose sugar blends*)	(*Sugar-based syrups*)
1702.90.05	2106.90.42
1702.90.10	2106.90.44
1702.90.20	2106.90.46

The above HTS subheadings are provided by Commerce for convenience and Customs purposes only; the written descriptions of scope for the antidumping findings and countervailing duty order are dispositive with respect to defining subject imports.

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[24] Customs' *CDSOA FY2004 Annual Report*. Duties contained in this "clearing account" represent unliquidated entries of sugar, and may be refunded to importers based upon final duty determinations by Commerce.

[25] Ibid.

[26] *Sugar from Belgium, France, and Germany; Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Findings*, 70 FR 17231 (April 5, 2005).

[27] To be excluded from the finding, sugar pellets from France must: (1) be composed of 85 percent sucrose and 15 percent lactose; (2) have a polished, matte appearance, and be more uniformly porous than domestic {i.e., U.S.} sugar cubes; and (3) be produced in sizes of either 2mm or 3.8mm in diameter. Ibid.

[28] *Sugar From the European Community; Preliminary Results of Full Sunset Review of the Countervailing Duty Finding*, 70 FR 15293 (March 25, 2005). As noted above, the 1992 Treaty of Maastricht created the European Union, which subsumed all institutions of the European Communities. Although Commerce continues to refer to the subject territory as the European Community, the countervailing duty order applies to all current member countries of the present European Union.

[29] Ibid.

Description and Uses[30]

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

Sugar cane (approximately 11 percent sugar by weight) is initially cut and milled to obtain sugar juice. Through a process of filtering, evaporating, and centrifuging, this juice, or raw sugar, is produced, which consists of large sucrose crystals coated with molasses. This intermediate product is normally 90-99 percent pure sucrose[31] and is the principal "sugar" shipped in world trade. Raw sugar is not sold to U.S. consumers because the Food and Drug Administration ("FDA") considers it unsuitable for use, either as food or as an intermediate food ingredient, due to the high level of impurities it contains. Consequently, raw sugar is sold only to refineries, which further process the sugar through additional melting, filtering, evaporating, and centrifuging, to extract most of the remaining impurities and leave what is called refined sugar (i.e., greater than 99.9 percent pure sucrose).

Like sugar cane, sugar beets (approximately 17 percent sugar by weight) are also initially processed to obtain sugar juice. Beets grown in the United States are converted directly into refined sugar without shipping raw sugar to a separate facility. In some countries, however, sugar beets are used to produce an intermediate product known as "raw beet" sugar, which is not fully refined and contains 90-99 percent sucrose. Fully processed sugars from cane and beets are indistinguishable from each other; purchasers buy and use both for the same end uses.

The primary use of sugar in the United States is human consumption, as a caloric sweetening agent in food. Among its various applications are use in bakery products, cereals, confections, sauces, and meat curing; use in dairy and ice cream applications; and sales directly to consumers. Most sugar is sold as pure granulated or powdered sucrose. Substantial quantities also reach consumers as liquid sugar (sugar dissolved in water), and in forms not chemically pure, such as brown sugar[32] and invert sugar syrups, or as sugar blends with glucose or fructose. In 2004, 56 percent of total U.S. sugar deliveries were to industrial users, which use it as an ingredient to sweeten processed foods.[33]

Manufacturing Process

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

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[30] Information in this section has been reproduced from the record in the Commission's first five-year reviews. *First Review Determinations*, USITC Publication 3238, September 1999, pp. I-17-I-19.

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

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

[33] *ERS Sugar and Sweetener Yearbook*, table 20, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

Sugar Cane Mill

Raw sugar is extracted from sugar cane through a process whereby the cane is sliced into pulp, water is added, and sugar juice is extracted. The leftover pulp ("bagasse") is sometimes used as fuel to power the mill. The sugar juice is then "clarified" by adding calcium hydroxide ("lime") and carbon dioxide, which trap solid impurities, and then allowing these solids to settle out of the solution. The sugar is then crystalized and placed into evaporators and high-speed rotating centrifuges, where extra water is evaporated and the sugar is separated from blackstrap molasses (a byproduct sold mainly as animal feed).[34] The final raw sugar product has a characteristic amber color and is sold or transferred to cane refineries for further processing.

Cane Sugar Refinery

In the first step of the refining process, raw sugar is combined with a solution of molasses and water called "affination syrup." This mixture, called "magma," is placed in high-speed rotating centrifuges which separate some of the remaining impurities from raw sugar crystals. The crystals are then melted, run through mesh strainers, and separated from microscopic impurities in a process called "carbonatation."[35] Now referred to as "liquor," the sugar solution is passed through "sweetland presses"[36] and filtered through granular bits of char which absorb most of the remaining impurities. The final processing steps re-crystallize the sugar and evaporate any excess water, leaving the sugar crystals dry enough to be sorted, packaged, and stored for shipment to customers. A variety of products are produced from this refined sugar, including granulated sugar, specialty sugars (such as brown sugar and powdered sugar), syrups, and molasses.

Sugar Beet Processor

Unlike sugar cane, sugar beets are processed, and their sugar refined, in a continuous process within the same manufacturing facility. The beets are first sliced into thin strips called "cossettes," and hot water is added to remove sucrose and create "raw juice." Any leftover sugar beet pulp is pressed into pellets and sold as livestock feed. The sugar juice is then mixed with lime and carbon dioxide to trap and remove solid impurities from the solution. Excess water is removed by evaporators, and the sugar is then crystallized and separated from the rest of the solution, called molasses, by centrifuges. Molasses is sold as an ingredient for animal feed, and to manufacturers for making lysine, baker's yeast, and other products.[37] At the end of the process, the sugar crystals are dried, cooled, and sorted for packaging according to crystal size.

According to questionnaire responses from U.S. refined sugar producers in these reviews, improvements in technology since the Commission's first reviews have allowed increases in the

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[34] Four out of the five U.S. cane refiners in these reviews reported molasses as a marketable byproduct of their sugar production process.

[35] Carbonatation adds a dilute solution of lime to the sugar solution, then bubbles carbon dioxide through the resulting solution. Calcium carbonate crystals form as a result, trapping impurities that can then be identified and filtered out.

[36] Sweetland presses are a series of cloth filters on round metal frames. Carbonatated liquor is passed through these presses, trapping and removing solid particles.

[37] In addition to beet pulp and beet molasses, U.S. processors of sugar beets reported concentrated separator byproduct ("CSB") and betaine as marketable byproducts of the beet sugar production process. Both these byproducts are sold mainly as additives to animal feed, though betaine is also used as a nutritional supplement for humans.

efficiency of sugar production, though the primary technology for sugar production today is "much the same as it has been for many years."[38]

Channels of Distribution

U.S. processors of beet sugar and refiners of cane sugar in these reviews reported the channels of distribution for their sales of refined sugar. According to these data, the majority of sugar shipments were sold to industrial end users, who accounted for 68 percent of total U.S. shipments in 2004. Sales to retail end users accounted for 21 percent of U.S. producers' refined sugar shipments in 2004, while sales to distributors accounted for the remaining 11 percent.[39] The Commission received few responses to its importers' questionnaire in these reviews, other than responses from U.S. cane sugar refiners. Data on the present channels of distribution for imported refined sugar are, therefore, unavailable. In the Commission's first reviews, the majority (58 percent) of imported sugar was sold to industrial end users, with 36 percent being sold to retail end users, and 6 percent to distributors.[40]

U.S. SUGAR PROGRAM

History

The U.S. Government has played an active role in the domestic sugar industry for many years. The primary purposes of government intervention have been to maintain stable prices for consumers and boost incomes for farmers. The first price-support legislation for the U.S. sugar industry, called the Jones-Costigan Act ("Sugar Act"), was instituted in 1934 and set quotas on domestic production and foreign imports based on estimated U.S. demand for the coming year. In the 1970s, inflation forced the demise of this "sugar program," as sugar prices quickly increased and the legislated tools did very little to bring prices back down to their historic level. By November 1974, world raw sugar prices reached 57 cents per pound (from 10 cents per pound the previous year), and on January 1, 1975, the Sugar Act was abandoned. With the Sugar Act's repeal, the Secretary of Agriculture lost the authority to set domestic sugar quotas; import quotas, acreage allotments, and direct payment to farmers were also eliminated.

Three years later, due to increased production in world markets, sugar prices declined to an average of 8 cents per pound. To counteract this decline, and lessen its impact on U.S. farmers, Congress intervened in the market once again, passing the Food and Agriculture Act ("FAA") in 1977. The FAA established a loan (or purchase) program in which cane millers and beet processors could receive loans for every pound of sugar they produced. The loans could be defaulted, and any sugar pledged as collateral forfeited to the Government, if the market price was not higher than the per-pound loan rate. In 1982, after a hiatus of seven years, Congress re-established quotas on sugar imports.

1996-2002

Under Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (the "Fair Act"), the U.S. sugar program continued to grant loans to domestic producers. Loans were administered by the Commodity Credit Corporation ("CCC") of the U.S. Department of Agriculture ("USDA"), and credits (or "rates") averaged 18 cents per pound for raw cane sugar and 22.9 cents per pound for refined

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[38] *See*, for example, ***'s response to the processors'/refiners' questionnaire, p. 7.

[39] The percentages of sugar sales accounted for by these three channels of distribution in 2004 are virtually unchanged from 1998. *See First Review Determinations*, USITC Publication 3238, September 1999, p. I-22.

[40] Ibid.

beet sugar.[41] These rates could not be increased but could be reduced by administrative action if domestic and export subsidies were reduced by the European Union and 10 other sugar producing countries.

Sugar loans could take the form of either "recourse" or "nonrecourse" credits. A nonrecourse loan required the processor receiving credits to make minimum payments for sugar cane or sugar beets delivered to it, and to pay a penalty if it forfeited its loan collateral to the CCC. Conversely, a recourse loan required no minimum payments to growers and no penalty for forfeiture; however, the processor remained liable for any losses the CCC incurred in selling the forfeited sugar. Loans granted by the CCC to U.S. sugar mills and sugar beet processors were recourse, unless in-quota imports of sugar amounted to, or exceeded, 1.5 million short tons raw value ("STRV").[42] If this occurred, nonrecourse loans would be made available and all recourse loans made during the fiscal year would be converted to nonrecourse loans. Prior to 1996, the sugar program was designed to operate at no net cost to the Federal Government; the Secretary of Agriculture set import quotas at levels which kept U.S. sugar prices above the loan rates to discourage defaults. The Fair Act did not renew this "no-net-cost" provision of the program.

2002-Present

The current U.S. sugar program is administered under the Farm Security and Rural Investment Act of 2002 ("Farm Bill"), which was signed into law on May 13, 2002 and is effective through Federal fiscal year 2007. Enactment of the 2002 Farm Bill resulted in changes to the U.S. sugar program, the most significant of which included the elimination of recourse loans, the reinstatement of a payment-in-kind ("PIK") program, and the establishment of domestic "marketing allotments" for processed sugar. These provisions, and other changes resulting from the 2002 Farm Bill, are summarized in table I-3.

Nonrecourse Loans

The 2002 Farm Bill established that all loans made to U.S. sugar beet or sugar cane processors be nonrecourse. Under these provisions, the USDA must accept sugar pledged as collateral as payment in full, in lieu of cash repayment of a loan.[43] The Farm Bill terminated penalties for forfeitures to the CCC, and extended nonrecourse loans to "in-process" beets and cane syrups, allowing processors to obtain loans on these products at 80 percent of the ordinary loan rates (unchanged from the 1996 Fair Act at 22.9 cents per pound for beet processors, and 18 cents per pound for producers of raw cane sugar).[44] Loan rates may be reduced by the USDA if foreign producers reduce export subsidies and support levels for sugar below their current WTO commitments.

Nonrecourse loans are provided only to processors of sugar, who must pledge to provide a portion of any loan payment to growers of the sugar beets or sugar cane provided to their firm.

Several U.S. producers reported having made sugar forfeitures to the CCC in the period examined in these reviews. Four cane millers reported a total forfeiture of 193,000 short tons of raw sugar to the CCC in 2000. Four beet processors reported forfeitures totaling 368,000 short tons in 1999, while two

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[41] Loan rates are lower for raw cane sugar primarily because it is an intermediate product requiring further processing by refiners.

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

[43] Loans administered under the sugar program are taken out for a maximum term of nine months, and must be liquidated, along with interest charges, by the end of the fiscal year in which they are made.

[44] "In-process" sugar and syrups must be converted into raw cane or refined beet sugar before being eligible for forfeiture to the CCC.

Table I-3
Sugar: Comparison of 1996 FAIR Act and 2002 Farm Bill sugar provisions

Provision	1996 FAIR Act	2002 Farm Bill
Program cost	• No no-net-cost provision.	• Secretary directed to operate the sugar program at no net cost to the U.S. Treasury.
Loan rates	• Fixed loan rates for raw cane and refined beet sugar.	• Loan rates can be reduced if foreign producers reduce export subsidies and support levels.
Loan interest	• Loans are primarily recourse.	• Loans are entirely nonrecourse. • Interest rate reduced by 1 percentage point. • Thirty-day forfeiture notice eliminated.
Forfeiture penalties	• Processors subject to penalties on forfeitures.	• Forfeiture penalties terminated.
Marketing assessments	• Sugar processors charged an assessment fee based on production.	• Marketing assessments terminated.
Marketing allotments	• Marketing allotments not in effect.	• Marketing allotments re-established.
Sugar storage	• Forfeitures to the CCC stored at Government expense.	• Marketing allotments shift storage costs from Government to industry. • Loan program established to assist processors with storage expense.
Payment-in-kind (PIK)	• PIK program provisionally offered in 2000 and 2001.	• PIK program reauthorized.
Reporting requirements	• Monthly reporting from processors required for production, imports, distribution, stocks, and purchases of sugar beets and sugar cane.	• Reporting requirements expanded to track imports of non-TRQ sugar, molasses, and syrups.

Source: USDA *Sugar and Sweeteners Outlook* No. SSS-234, May 31, 2002.

further processors reported having forfeited 199,350 short tons in 2000. More recently, two beet processing firms reported having forfeited a total of 40,000 short tons of sugar to the CCC in September 2004.[45] Unofficial USDA statistics indicate that the CCC received a total of 892,000 short tons in sugar forfeitures for the 1999 crop year, 28,000 short tons in crop year 2000, and 40,000 tons in crop year 2003.[46]

Payment-In-Kind Program

The 2002 Farm Bill authorized a program, offered provisionally in 2000 and 2001, allowing processors to bid on raw cane sugar or refined beet sugar held by the USDA in CCC inventories, in exchange for agreement from the processor to reduce its own production. This "payment-in-kind" (PIK) program also allows for growers of sugar beets and sugar cane to bid for a quantity of CCC inventory

[45] Responses to the millers' questionnaire, p. 9; and responses to the processors/refiners' questionnaire, p. 13. *See also* the domestic industry's prehearing brief, p. 16.

[46] Farm Service Agency, *Loan Forfeitures Summary Report*, retrieved at *www.fsa.usda.gov/dafp/psd/reports.htm*.

they would accept in exchange for reducing planted acreage, or for forgoing the harvest of a specified acreage of sugar beets or sugar cane.

Seven beet processing firms and two cane milling firms reported having participated in the CCC's PIK program during its provisional operation in 2000 and 2001. No processing or milling firms reported having participated in the program since enactment of the 2002 Farm Bill. Over a three-year period beginning in 2000, the CCC disposed of approximately one million short tons of raw cane and refined sugar, primarily through release under the PIK program.[47] By March 2003, the CCC had disposed of its entire sugar inventory.[48]

Marketing Allotments

The 2002 Farm Bill reactivated the provision, suspended during application of the 1996 Fair Act, that the U.S. sugar program be administered at no net cost to the Federal Government. Under the provisions of the Farm Bill, the Secretary of Agriculture is directed to achieve the "no net cost" requirement by avoiding, to the maximum extent possible, any forfeitures of sugar to the CCC, which result when the market price for sugar is less than the per pound rate of a nonrecourse loan, plus interest and costs. The PIK program is one method by which the USDA can control excess supplies of (price-depressing) sugar. "Marketing allotments" provide another method.

Under the provisions of the Farm Bill, the USDA is authorized to establish flexible marketing allotments which restrict the amount of sugar individual processors can market in the United States. The overall quantity of sugar to be allotted for a given crop year[49] is determined by subtracting the sum of 1.532 million STRV,[50] and any carry-in stocks (or inventory) of sugar, from the USDA's estimate of domestic consumption, plus a reasonable carryover stock. This overall allotment quantity ("OAQ") is divided between beet and cane sugar at a set ratio of 54.35 percent for beet and 45.65 percent for cane. Beet sugar processors are then assigned allocations based on their sugar production in the 1998-2000 crop years, while cane sugar allocations are assigned on the basis of past marketings, current ability to market, and past processing levels. Processors who produce sugar beyond their allotment must postpone sales, and either store the excess or sell it outside the domestic "food-use" market.[51]

Under the provisions of the 2002 Farm Bill, the USDA's authority to restrict the marketing of domestically produced sugar through allotments is suspended if imports of sugar for human consumption[52] exceed 1.532 million STRV, such that the overall allotment quantity would have to be reduced. Marketing allotments would remain suspended until the USDA estimates that imports were reduced to under this "trigger" level.

In the present reviews, U.S. producers were asked to comment on the impact of marketing allotments on their operations on sugar. Several beet processors reported that the allotments' restriction

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[47] USDA *Notice to the Trade*, No. BCD-44, March 26, 2003, retrieved at *www.fsa.usda.gov/ao/epas/BCD-44.pdf.*

[48] Ibid. As noted above, the CCC once again received forfeitures of sugar, from two beet processors, in September 2004.

[49] USDA's crop year coincides with the Federal Government fiscal year (October 1 to September 30).

[50] The 1.532 million STRV quantity is derived by adding the minimum quantity of imports required by the United States subject to its GATT commitments (1.256 million STRV) and the maximum quantity of duty-free imports allowed from Mexico subject to the United States' NAFTA commitments (275,578 short tons).

[51] Sugar produced beyond a processor's marketing allotment must be stored at the processor's own expense, thereby shifting cost of storing excess production from the Government to the industry. The 2002 Farm Bill does provide for the establishment of a Sugar Storage Facility Loan Program to provide financing for processors who have to construct or upgrade storage facilities.

[52] In calculating imports for domestic human consumption, the USDA excludes sugar imported for processing and re-export, as well as imports for use in polyhydric alcohols. *See* "Other program imports" in Part IV, table IV-2.

on their sugar sales had resulted in curtailed production, reduced income, higher unit costs, and –in two cases– plant closure.[53] Cane millers reported similar views, adding that allotments prevented "bumper" crop years from compensating for years in which cane harvests were poor.[54] Although independent cane refiners reported minimal impact from marketing allotments, integrated refiners reported reductions in raw sugar sales, reduced cane acreage, and, in one case, a 20 percent reduction in employment.[55]

TARIFF-RATE QUOTAS ON U.S. IMPORTS

U.S. imports of sugar are currently subject to a system of tariff-rate quotas ("TRQs"), which have been in place since October 1990.[56] The TRQs were proclaimed following a GATT ruling against the U.S. sugar quota system that was in effect at the time. Pursuant to market access commitments made under the Uruguay Round agreements, the United States has agreed to annually import not less than 1,117,195 metric tons (1,231,484 short tons) of raw cane sugar and not less than 22,000 metric tons (24,251 short tons) of other sugars (including refined sugar[57] and raw beet sugar), syrups, and molasses at low ("in-quota") duty rates. The U.S. Trade Representative ("USTR") allocates the entire raw cane sugar TRQ on a country-by-country basis,[58] while a portion of the refined sugar TRQ is allocated to specific countries, with the remainder allocated on a global first-come, first-served basis. In the quota year beginning October 1, 2004, the raw cane sugar TRQ is the minimum 1,117,195 metric tons (1,231,484 short tons), and the refined sugar TRQ is 43,000 metric tons (47,399 short tons), raw value, including 22,656 metric tons (24,974 short tons), raw value, reserved for specialty sugar.[59] Table I-4 summarizes the components and quantities of the U.S. sugar TRQ, while table I-5 presents HTS tariff rates for in- and over-quota imports of sugar.

Raw Cane Sugar

Raw cane sugar imports under the TRQ are assessed an in-quota rate of 1.4606 cents per kilogram (0.6625 cent per pound). This tariff is reduced by 0.020668 cent per kilogram (0.009375 cent per pound) for each degree of purity under 100 degrees (or fractions thereof) to a minimum of 0.943854 cent per kilogram (0.428129 cent per pound). Eligible in-quota imports from Mexico and Canada receive duty-free treatment under the North American Free Trade Agreement ("NAFTA"), as do in-quota imports

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[53] Both *** and *** attributed recent plant closures to the institution of domestic marketing allotments. Responses to processors'/refiners' questionnaires, p. 12.

[54] A minority of cane millers reported that the negative impact of marketing allotments' restrictions on sales was balanced by the "marginally higher prices" that result from the allotment system. *See*, for example, ***'s response to the millers' questionnaire, p. 8.

[55] ***'s response to the processors'/refiners' questionnaire, p. 12.

[56] Additional U.S. note 5(a)(i) to chapter 17 of the Harmonized Tariff Schedule provides for separate TRQs for imports of raw cane sugar and for imports of certain other sugars, syrups, and molasses. The United States' minimum in-quota sugar import quantity is currently set by commitments made in Schedule XX of the GATT Marrakesh Protocol; however, USDA can adjust the figure upward under certain circumstances, to allow a larger quantity of sugar to enter at the lower, in-quota, duty rate.

[57] Sugar imported under the refined sugar TRQ can be produced from either sugar beets or sugar cane.

[58] *See* 69 FR 46200 (August 2, 2004). A list of sugar exporting countries' fiscal year 2005 raw cane sugar TRQ allocations is presented in part IV of this report.

[59] Refined sugar is defined by USDA as "sugar of which the sucrose by weight, in the dry state, corresponds to a polarimeter reading of 99.5 degrees or more." Specialty sugar is refined sugar that meets specifications determined by Customs. An increasing portion of the refined sugar TRQ has been reserved for organic sugar in recent years, owing to limited U.S. production and a growing demand by the organic processed foods industry.

Table I-4
Sugar: U.S. raw and refined sugar TRQ quantites, Federal fiscal years 1999 and 2005

Item	Tariff rate quota (*short tons*)	
	1999	2005
Raw sugar[1]	1,284,123	1,231,484
Refined sugar:		
Specialty sugar[2]	5,132	24,974
Canada	11,354	11,354
Mexico	3,256	3,256
Other refined sugar[2]	35,374	7,815
Total refined sugar	55,116	47,399
Total	1,339,239	1,278,883

[1] The raw sugar portion of the TRQ is allocated to 40 countries based on historical imports (*see* Part IV, table IV-1).
[2] Allocated on a first come, first served basis.

Source: *2004-2005 Allocations of the Tariff-rate Quotas for Raw Cane Sugar, Refined Sugar, and Sugar-Containing Products*, 69 FR 46200, August 2, 2004; and *First Review Determinations*, USITC Publication 3238, September 1999, pp. I-24-I-25.

from countries eligible for duty-free treatment under preferential trade arrangements such as the Generalized System of Preferences ("GSP"),[60] the Carribean Basin Economic Recovery Act ("CBERA"),[61] and the Andean Trade Preferences Act ("ATPA"), as well as free trade agreements with Chile, Israel, Jordan, and Singapore.[62] Tier I tariff rates have not changed since the Commission's first five year reviews.

Raw cane sugar imports in excess of the quota are subject to a "tier II" tariff equal to 15.36 cents per pound. As indicated in table I-5, tier II tariff rates have been reduced since the Commission's first five year reviews, in line with the United States' NAFTA and Uruguay Round commitments.[63] In-quota

[60] U.S. imports of raw cane sugar under HTS subheading 1701.11.10 from Argentina, Brazil, and the Dominican Republic are not eligible for duty-free treatment under the GSP.

[61] U.S. imports of raw cane sugar under HTS heading 1701 from Antigua and Barbuda, Montserrat, Netherlands Antilles, Saint Lucia, and Saint Vincent and the Grenadines are not eligible for duty-free treatment under the CBERA.

[62] The quantity of duty-free imports from countries under these free trade agreements may be limited by conditions related to the countries' net trade or production status for sugar (*see* the "Free Trade Agreements" section of Part IV).

[63] As of 2000, the United States has fulfilled its Uruguay Round tier II tariff reduction commitments. Any further reductions would result from the present Doha Round of trade negotiations or from future such talks. Tier II tariff rates for Mexico are scheduled to be phased out completely by 2008 (*see* the "Free Trade Agreements" section of Part IV).

Table I-5
Sugar: HTS tariff rates, Federal fiscal years 1999 and 2005

Item	In-quota rate (tier I)		Over-quota rate (tier II)	
	1999	2005	1999	2005
General rate (applies to EU)				
Raw cane sugar	0.43-0.66	0.43-0.66	15.82	15.36
Raw beet sugar and refined sugar	1.43-1.66	1.43-1.66	16.69	16.21
Canada				
Raw cane sugar[1]	Free	Free	Does not apply[3]	
Raw beet sugar and refined sugar[2]	Free	Free	Does not apply[3]	
Mexico				
Raw cane sugar	Free	Free	13.60	3.10-4.80
Raw beet sugar, and refined sugar	Free	Free	9.32-14.41	3.10-4.80
Other[4]				
Raw cane sugar	Free	Free	N/A	7.67-12.79
Raw beet sugar, and refined sugar	Free	Free	N/A	8.07-13.47

[1] Canada does not produce raw cane sugar. Raw cane sugar imported into Canada and transhipped to the United States maintains its original country of origin for Customs purposes.
[2] Only beet sugar refined in Canada is eligible for duty-free treatment. Cane sugar refined in Canada from imported raw sugar is subject to the tariff rate applicable to the country in which the raw sugar was milled.
[3] Over-quota imports of sugar from Canada enter the United States at the "general" rate.
[4] Applies to imports under free trade agreements with Jordan, Singapore, and Chile, and to in-quota imports from eligible GSP countries (over-quota GSP imports are levied the "general" rate).

Note.–Federal fiscal year is from October 1 to September 30.

Source: Compiled from the 2005 Harmonized Tariff Schedule of the United States, and *First Review Determinations*, USITC Publication 3238, September 1999, table I-8, p. I-25.

(tier I) tariff rates and over-quota (tier II) tariff rates are not cumulative; sugar imports are either subject to the tier I or the tier II rate, as the HTS has separate subheadings for each tier.[64]

[64] The in-quota rates also apply to imports of raw cane sugar under general note 15 to the HTS (relating to imports not entered for general consumption) and to imports of raw cane sugar to be used in the production of polyhydric alcohols or to be refined and re-exported in refined form or in sugar-containing products, or to be substituted for domestically produced raw cane sugar that has been or will be exported.

Refined Sugar[65]

The combined TRQ for refined sugar during fiscal year 2005 is 47,399 short tons, which includes 24,974 short tons reserved for specialty sugars not subject to the order and findings under review. Of the quantity not reserved for specialty sugars, 11,354 short tons is allocated to Canada and 3,256 short tons to Mexico. The remaining 7,815 short tons is allocated on a first-come, first-served basis. Canada and Mexico may utilize the first-come, first-served portion of the TRQ before filling their reserved amounts, thus potentially limiting the amount available to other countries, including those in the European Union.

Canada and Mexico have duty-free access to the United States for in-quota (tier I) imports of refined sugar. All other countries, including those in the European Union, have tariff rates ranging from 1.43 to 1.66 cents per pound, depending on the polarity[66] of the sugar being imported. For over-quota (tier II) imports, all countries except Mexico are levied a tariff equal to 16.21 cents per pound. Mexico's tariff ranges from 3.10 to 4.80 cents per pound, depending on the polarity of the sugar being imported. The tariff rate applicable to over-quota imports from Mexico is being reduced in annual stages to a scheduled rate of "free" in 2008.

Sugar-Containing Products

Along with the raw and refined sugar TRQs, the USTR annually establishes and publishes a TRQ for certain sugar-containing products.[67] For fiscal year 2005, the USTR established a sugar-containing products TRQ of 64,709 metric tons (71,329 short tons), of which 65,312 short tons (or 92 percent of the total TRQ) is allocated to Canada.[68] The domestic sugar industry has highlighted research indicating that increased U.S. imports of sugar-containing products partially explain reduced domestic sugar shipments since 2000.[69] USDA analyses estimate that the quantity of sugar in imported sugar-containing products increased from approximately 600,000 short tons in 1999 to approximately 1.1 million short tons in 2004.[70] Sugar-containing products are not subject to the antidumping findings and countervailing duty order under review.

SAFEGUARDS

On January 1, 1995, the Uruguay Round Agreement on Agriculture ("Agreement") took effect. Article 5 of the Agreement allows safeguard duties to be imposed on certain agricultural imports, in

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[65] The products subject to the tariff rate for refined sugar include raw beet sugar and sugars, syrups, and molasses imported under HTS subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44.

[66] Polarity refers to the purity (or sucrose content) of the sugar being imported, and is measured in degrees. *See* fn. 31, above.

[67] Quotas for certain sugar-containing products are provided for by additional U.S. Note 8 to chapter 17 of the HTS.

[68] *2004-2005 Allocations of the Tariff-rate Quotas for Raw Cane Sugar, Refined Sugar, and Sugar-Containing Products*, 69 FR 46200 (August 2, 2004). The remaining in-quota quantity is available to other countries on a first-come, first-served basis.

[69] Domestic industry's response to the notice of institution, October 21, 2004, pp. 78-79. *See also*, hearing transcript, pp. 21-22 (Blamberg). The USDA study cited by the domestic industry concluded that while imports of sugar containing products have been "an important factor explaining reduced sugar deliveries," these imports "do not explain the precipitous drop-off in industrial sugar deliveries starting in 2000." *Measuring the Effect of Imports of Sugar-Containing Products on U.S. Sugar Deliveries*, USDA Outlook No. SSS-237-01, September 2003, p.1, included at app. 23 of the domestic industry's response to the notice of institution.

[70] USDA *Sugar and Sweeteners Outlook* No. SSS-243, May 31, 2005, table 2, p. 7.

addition to tariff levels negotiated during the Uruguay Round, if certain conditions ("triggers") are met. Additional duties may be charged if: (1) the price of an individual shipment of the imported product falls below the average price for similar goods imported during the years 1986-88 by a specific percentage, or (2) the volume of imports exceeds the average of the three most recent years by a specific percentage (normally 5, 10, or 25 percent). The Agreement allows only one of the two triggers, price or quantity, to be used at any given time. Provisions to allow safeguards on U.S. imports were proclaimed by the President and added to HTS chapter 99, subchapter IV.[71] In the United States, price-based safeguards are automatically effective unless the Secretary of Agriculture chooses to switch to a quantity-based safeguard.[72] Switching to a quantity-based safeguard is done on a product-specific basis and is not automatically implemented if imports reach the threshold volume; the Secretary of Agriculture must administratively implement the switch and publish its decision in the *Federal Register*.[73]

USDA targeted more than 40 agricultural products for safeguard duties, including sugar. Once the trigger levels are reached, safeguard tariffs are levied in addition to normal tariffs. For sugar, safeguard tariffs are applied in addition to either in-quota (tier I) or over-quota (tier II) rates. Pursuant to U.S. free trade agreements, price- and quantity-based safeguards do not apply to sugar imports meeting country-of-origin requirements from Australia, Canada, Chile, Jordan, Mexico, and Singapore.

Table I-6 lists the price-based safeguard triggers that are currently authorized, while table I-7 presents the raw cane and refined sugar safeguard quantity levels that would apply if the Secretary of Agriculture switched to a quantity-based trigger. Trigger levels and tariff rates for price-based safeguards have not changed since the Commission's first five-year reviews. Quantity-based tariff rates were reduced in 2000 in fulfillment of the United States' Uruguay Round commitments. The United States has not implemented any quantity-based safeguards with respect to sugar since 1999. Table I-6A presents instances of sugar imports triggering automatic price-based safeguards between 1996 and 2004. As indicated in this table, price-based safeguards have been applied to imports of sugar from the European Union during the period examined in these reviews.[74]

THE DOMESTIC LIKE PRODUCT

The Commission did not make a like product determination *per se* in its original antidumping investigations relating to sugar from Belgium, France, and Germany, as the then effective 1921 Antidumping Act did not contain a "like product" provision. The Commission did, however, define the domestic industry as "facilities for the production of sugar cane and raw cane sugar in the Southeastern region of the United States."[75] In its original countervailing duty investigation relating to sugar from the European Community, conducted under section 104(b) of the Trade Agreements Act of 1979, the

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[71] *See Uruguay Round Agricultural Safeguard Trigger Levels*, 60 FR 427, January 4, 1995 (effective January 1, 1995).

[72] The Secretary of Agriculture has the authority to switch from price triggers to quantity triggers, even within the same quota period. The administrative burden of switching between triggers, however, effectively precludes such a switch, except under extraordinary circumstances.

[73] Only one volume-based safeguard (sheep meat) has been implemented since the Agreement became effective in 1995. All other safeguards enacted have been price-based. In theory, raw and refined sugar could be subject to different types of safeguard measures.

[74] Imports from Poland would not have been subject to the countervailing duty on sugar from the European Union prior to its accession to the Union in May 2004.

[75] *Original Antidumping Determinations*, USITC Publication 972, May 1979, p. 3.

Table I-6
Sugar: Price-based import safeguard triggers and tariff rates, Federal fiscal year 2005[1] [2]

Import value	Additional duty	
	Raw cane sugar	Refined (or raw beet) sugar
	(*Cents per pound*)	
Less than 2.27	5.85	9.80
2.27 to 4.53	3.95	7.76
4.54 to 6.79	2.49	5.94
6.80 to 9.06	1.36	4.35
9.07 to 11.33	0.68	3.22
11.34 to 13.60	No additional duty	2.09
13.61 to 15.87		1.41
15.88 or greater		No additional duty

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

Note.–Federal fiscal year is from October 1 to September 30.

Source: Compiled from the 2005 Harmonized Tariff Schedule of the United States.

Table I-7
Sugar: Quantity-based import safeguards, Federal fiscal years 1999 and 2005[1] [2]

Item	Raw cane sugar		Refined (or raw beet) sugar	
	1999	2005	1999	2005
Import quantity trigger (*short tons*)	2,366,204	1,425,192	25,484	73,135
Additional duty (*cents per pound*)	5.26	5.13	5.58	5.40

[1] The safeguard duties for raw cane and refined (or raw beet) sugar are provided for in HTS subheadings 9904.17.07 and 9904.17.16, respectively.
[2] Safeguard duties do not apply to sugar imports that meet country-of-origin requirements from Canada, Mexico, Jordan, Singapore, Chile, and Australia.

Note.–Federal fiscal year is from October 1 to September 30.

Source: Compiled from *WTO Agricultural Safeguard Trigger Levels*, 69 FR 34638, June 22, 2004.

Table I-6A
Sugar: Application of automatic price-based safeguards, 1996-2004[1]

Year	HTS subheading	Source	Customs value (*dollars*)	Calculated duties (*dollars*)	Quantity (*short tons*)	Unit value (*¢/lb.*)	Total duties (*¢/lb.*)
1997	17019950	Belgium	$14,213	$17,495	46	15.57	19.17
1999	17019950	Belgium	4,516	8,848	22	10.16	19.91
2000	17011150	El Salvador	2,400	831	2	59.16	20.49
2000	17011150	Paraguay	2,851	2,032	7	21.55	15.36
2000	17019950	Belgium	5,058	969	2	112.80	21.61
2001	17011250	Netherlands	25,761	9,290	21	59.92	21.61
2001	17019950	Mexico	13,659	24,909	64	10.66	19.43
2001	17019950	Poland	3,214	3,853	11	14.70	17.62
2002	17011150	El Salvador	7,440	2,223	5	68.58	20.49
2002	17011150	Colombia	15,759	27,374	83	9.50	16.51
2002	17019950	Brazil	48,813	71,604	196	12.47	18.30
2002	17019950	France	6,653	1,453	3	98.94	21.61
2002	17019950	Poland	3,751	4,443	13	14.87	17.62
2002	17019950	India	8,654	10,370	29	14.70	17.62
2002	17019950	Australia	3,601	4,661	13	13.61	17.62
2003	17019950	Brazil	113,431	166,392	455	12.47	18.30
2003	17019950	Poland	4,464	5,593	16	14.06	17.62
2003	17019950	Israel	2,638	3,263	9	14.25	17.62
2004	17019130	Brazil	30,000	38,840	110	13.61	17.62
2004	17019950	Brazil	601,909	773,121	2,185	13.78	17.69
2004	17019950	Finland	19,800	7,861	18	54.43	21.61
2004	17019950	France	9,400	953	2	213.19	21.61
2004	17019950	Poland	5,197	6,339	18	14.44	17.62

[1] No price-based safeguard duties were levied on sugar imports in 1996.

Note.–As indicated in table I-6, price-based safeguards apply to imports of refined sugar with a value of less than 15.88 cents per pound, and to imports of raw sugar valued at less than 11.34 cents per pound. Entries in the above table include imports with unit values much higher than these trigger amounts. A Customs official contacted by staff attributed these anomalies to ***. Email from ***, U.S. Customs and Border Protection, August 5, 2005.

Source: USITC Oracle database, based on official Commerce statistics.

Commission found the appropriate like product consisted of "both beet and cane sugar," and the domestic industry consisted of "growers, processors and refiners."[76]

In its first five-year reviews of the antidumping findings and countervailing duty order, the Commission defined the like product as consisting of "raw and refined sugar, whether cane or beet," consistent with its determination in the original 1982 countervailing duty investigation.[77] With respect to the domestic industry, the Commission found one national industry that included sugar cane and sugar beet growers, as well as cane millers, cane refiners, and beet processors.[78] Counsel to the domestic industry in the present reviews supports the domestic like product and domestic industry findings of the Commission in its first five-year reviews, and urges the Commission to adopt these same definitions in the present reviews.[79]

U.S. MARKET PARTICIPANTS

Introduction

The sugar industry in the United States is comprised of five segments: growers of sugar beets, processors of beet sugar, growers of sugar cane, millers of sugar cane, and cane sugar refiners. Each of these segments is examined below.

Sugar Beet Growers

At the time of the Commission's original antidumping investigations (1979), sugar beets were grown in 18 U.S. states. By 1982, when the Commission conducted its original countervailing duty investigation, the number of states in which sugar beets were produced had declined to 15. The most up-to-date official statistics at the time suggested that there were approximately 10,500 farms producing sugar beets in the United States in the 1977-78 crop year, though it was believed that this number had likely decreased by 1982.[80] In 1999, the year in which the Commission conducted its first reviews, there were believed to be "over 9,000" farms producing sugar beets in 11 U.S. states.[81]

In its response to the notice of institution in the present reviews, counsel to the U.S. sugar industry noted that there are "approximately 10,000" sugar beet growers in 12 states in the following U.S. regions:[82]

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[76] *Sugar from the European Community, Determination of the Commission in Investigation No. 104-TAA-7 Under Section 104(b) of the Trade Agreements Act of 1979, Together With the Information Obtained in the Investigation ("Original Countervailing Duty Determination")*, USITC Publication 1247, May 1982, p. 4.

[77] *First Review Determinations*, USITC Publication 3238, September 1999, p. 8.

[78] Ibid., p. 9. In cases involving processed agricultural products, the Commission is authorized to include growers of a raw agricultural input (in this case sugar beets and sugar cane) within the domestic industry producing the domestic like product if: (a) the domestic like product is produced from the raw input through a single continuous line of production, and (b) there is a substantial coincidence of economic interest between growers and producers of the domestic like product (19 U.S.C. 1677(4)(E)). Information regarding the manufacturing process for raw and refined sugar is presented above. Information relating to economic interrelationships between growers and processors is presented below, and in the "Financial Experience" section of Part III.

[79] Domestic industry's response to the notice of institution, October 21, 2004, p. 79.

[80] *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982, p. A-10.

[81] *First Review Determinations*, USITC Publication 3238, September 1999, p. I-35.

[82] Domestic industry's response to the notice of institution, October 21, 2004, pp. 3-4. (Regions are designated by the USDA.)

Far West	*Great Lakes*	*Great Plains*	*Upper Midwest*
California	Michigan	Colorado	Minnesota
Idaho	Ohio	Montana	North Dakota
Oregon		Nebraska	
Washington		Wyoming	

Official USDA statistics indicate that in 2004, Minnesota and North Dakota together accounted for about half (49 percent) of total U.S. sugar beet production, followed by states in the Far West (27 percent), the Great Plains (13 percent), and the Great Lakes (12 percent).[83] As of 2004, Minnesota was the largest sugar beet producing state, followed by Idaho and North Dakota.

Sugar Beet Processors

Between 1976 and 1979, periods surveyed in the Commission's original investigations, the number of beet sugar processing facilities in the United States decreased from 58 to 44. These processors were owned by 13 companies or cooperatives scattered throughout the sugar beet-producing regions of the United States.[84] At the time, sugar beets were grown by farmers under contract to beet sugar processors. The contracts called for growers to deliver beets from a given acreage to processors, and for processors to reimburse growers on a basis that included a percentage of the return processors received from the sale of refined sugar.[85]

At the time of the Commission's first five-year reviews (1999), the number of beet processing facilities in the United States had decreased to 30, owned by seven firms. According to information collected in the first reviews, beet facility closures leading up to 1999 were in many cases the result of processing firms deciding to shed capacity at smaller, less efficient plants, while allowing for expansion at larger, more profitable ones. Indeed, between 1980 and 1998, the total quantity of refined beet sugar produced in the United States increased by 38 percent, according to data obtained from USDA in 1999.[86]

Information submitted by the domestic industry in the present reviews indicate that there are currently 24 facilities, owned by eight firms, processing sugar beets in the United States. A list of beet processing firms identified in these and in the Commission's first reviews, as well as a summary of ownership changes and plant closures between 1999 and 2004, is presented in table I-8, while table I-9 indicates each processor's share of the 2005 overall sugar marketing allotment quantity.

The period between 1999 and 2004 was marked by an increase in cooperative ownership of beet processing firms. In December 2001, over 1,000 beet growers in four states united to form the Rocky Mountain Growers Cooperative, and in June 2002, completed the purchase of Western Sugar Co. from Tate & Lyle North American Sugars, Inc. The sale included six beet processing facilities, though one was shut down shortly thereafter. The newly formed company accounts for 5.4 percent of the 2005 U.S. refined sugar marketing allocation.

In February 2002, Texas-based Imperial Sugar Co. ("Imperial") sold Michigan Sugar Co. ("Michigan Sugar") to a cooperative of beet growers who supplied the company's four Michigan

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[83] USDA's *Sugar and Sweetener Yearbook*, table 14, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

[84] Due to the high cost of transporting beets, and the low percentage of sugar extracted from them relative to their weight, beet processing plants tend to be located in close proximity to beet growing regions.

[85] *Original Antidumping Investigations*, USITC Publication 972, May 1979, p. A-10; and *Original Countervailing Duty Investigation*, USITC Publication 1247, May 1982, p. A-10.

[86] *First Review Determinations*, USITC Publication 3238, September 1999, pp. I-31 and I-32.

Table I-8
Sugar: Beet processing firms, plant locations and closures, and ownership changes, 1999-2004

1999 beet processing firms (*plant locations*)	Plant closures/ownership changes	2004 beet processing firms (*plant locations*)
Amalgamated Sugar Co. *Nampa, ID* *Twin Falls, ID* *Paul, ID* *Nyssa, OR*		Amalgamated Sugar Co. *Nampa, ID* *Twin Falls, ID* *Paul, ID* *Nyssa, OR*[1]
American Crystal Sugar Co. *East Grand Forks, MN* *Hillsboro, ND* *Crookston, MN* *Drayton, ND* *Moorhead, MN*		American Crystal Sugar Co. *East Grand Forks, MN* *Hillsboro, ND* *Crookston, MN* *Drayton, ND* *Moorhead, MN* *Torrington, WY* *Sidney, MT*
Holly Sugar Corp. (Imperial) *Sidney, MT* *Torrington, WY* *Moses Lake, WA* *Worland, WY*	2002 - Moses Lake plant closed. 2002 - Sidney and Torrington plants sold to American Crystal Sugar Co. 2002 - Worland plant sold to growers' cooperative.	Wyoming Sugar Co. *Worland, WY*
Michigan Sugar Co. (Imperial) *Caro, MI* *Croswell, MI* *Carrollton, MI* *Sebewaing, MI*	2002 - Firm sold to growers' cooperative. 2005 - Carrollton plant closed.	Michigan Sugar Co. *Bay City, MI* *Croswell, MI* *Caro, MI* *Sebewaing, MI*
Minn-Dak Farmers Coop. *Wahpeton, ND*		Minn-Dak Farmers Coop. *Wahpeton, ND*
Monitor Sugar Co. *Bay City, MI*	2004 - Firm sold to Michigan Sugar Co.	
Southern Minnesota Beet Sugar Coop. *Renville, MN*		Southern Minnesota Beet Sugar Coop. *Renville, MN*
Spreckels Sugar Co. (Imperial) *Brawley, CA* *Tracy, CA* *Mendota, CA* *Woodland, CA*	2000 - Tracy plant closed. 2000 - Woodland plant closed.	Spreckels Sugar Co. (Imperial) *Brawley, CA* *Mendota, CA*
Western Sugar Co. (Tate & Lyle, NA) *Fort Morgan, CO* *Baynard, NE* *Greeley, CO* *Scottsbluff, NE* *Billings, MT* *Lovell, WY*	2002 - Baynard plant closed. 2002 - Remaining plants sold to growers' cooperative. ***	Western Sugar Coop. ***

[1] According to its questionnaire response, Amalgamated Sugar ***.

Source: Domestic industry's response to the notice of institution, October 21, 2004; public press and company reports; and responses to Commission questionnaires.

Table I-9
Sugar: U.S. beet processors, and share of Federal fiscal year 2005 overall allotment quantity

Firm	Share of FY 2005 OAQ (*percent*)
Amalgamated Sugar Co., LLC	11.3
American Crystal Sugar Co.	20.9
Michigan Sugar Co.	3.5
Minn-Dak Farmers Coop.	3.4
Southern Minnesota Beet Sugar Coop.	3.5
Imperial Sugar (d.b.a. Spreckels)	3.6
Western Sugar Coop.	5.4
Wyoming Sugar Co.	0.7

Source: *Domestic Sugar Program–2005–Crop Sugar Marketing Allotments and Company Allocations*, 69 FR 76684, December 22, 2004.

processing plants.[87] In October 2004, Michigan Sugar purchased Monitor Sugar Co. from South Africa-based Illovo Sugar, Ltd.[88] Growers supplying both companies combined to form a single cooperative, which accounts for 3.5 percent of the 2005 OAQ. Michigan Sugar closed one of its five processing plants in May 2005.

Imperial further divested itself of all processing facilities operating by its Holly Sugar Corp. ("Holly") subsidiary. In June 2002, Holly's Worland, WY factory was sold to 120 growers and investors, and renamed Wyoming Sugar Co., LLC. Wyoming Sugar accounts for 0.7 percent of the 2005 OAQ. Holly's plant in Moses Lake, WA, was closed in early 2002,[89] and its two remaining plants were sold to American Crystal in October 2002. In 2000, Imperial also closed down two beet processing facilities operated by Spreckels Sugar Co. ("Spreckels"), its only remaining beet processing subsidiary. Spreckels' two remaining beet plants account for 3.6 percent of the 2005 OAQ.

American Crystal and Minn-Dak Farmers Coop. ("Minn-Dak"), along with United States Sugar Corp., a Florida-based producer of cane sugar, together own United Sugars Corp., the largest marketer of industrial and consumer sugar in the United States.[90] American Crystal, Minn-Dak, Michigan Sugar, and Southern Minnesota Beet Sugar Coop. ("Southern Minnesota") together also jointly own Midwest Agri-Commodities, a cooperative that globally markets beet pulp, beet molasses, and other co-products of beet

[87] Imperial will continue to market sugar produced by Michigan Sugar, subject to a 10-year agreement extending to September 2011. Domestic industry's response to the notice of institution, October 21, 2004, p. 41.

[88] Michigan Sugar submitted trade data for Monitor Sugar for the period prior to its acquisition (January 1999 - September 2004); the company was not, however, able to provide financial data for Monitor Sugar for this period.

[89] The Moses Lake factory, completed in September 1998, was the only new beet processing plant to be built in the United States since 1975. Press reports in 2002 attributed the factory's closure to equipment failures, rising power prices, and low sugar prices. "Sugar Beet Factory Suffers Bitter Demise," *Tri-City Herald*, May 6, 2002. In 2003, the assets of Pacific Northwest Sugar Co., which included the idle Moses Lake plant, were purchased by American Crystal Sugar Co. ("American Crsytal").

[90] According to United Sugars' web site, the company markets more than 30 percent of sugar supplied to the U.S. market. *www.unitedsugars.com* (retrieved on May 10, 2005).

sugar production. Sugar produced by Southern Minnesota[91] and Wyoming Sugar are marketed by Cargill Sweeteners, NA.

The domestic industry has attributed the recent increase in grower-owned cooperative production to volatility in the U.S. sugar market.[92] According to the industry, both sugar beets and sugar cane are prohibitively expensive to transport over large distances. The threat of processing plant closures –resulting from increasing costs and volatile sugar prices– raised the prospect for growers of not having a local buyer for their harvest. As a result of the ownership changes in the last five years, the domestic industry estimates that grower-owned cooperatives presently account for 93 percent of U.S. beet sugar production capacity (up from 65 percent in 1999) and 73 percent of total U.S. refined sugar capacity.[93]

According to information provided by the domestic industry in these reviews, an increase in cooperative ownership of sugar producing facilities has been a marked characteristic of the changes occurring in the U.S. sugar industry since 1999. Of the beet processors identified in table I-8, all but one (Imperial) are owned by the growers of beets used in the production of the plant's refined sugar.

U.S. processors of beet sugar universally support continuation of the countervailing duty order on sugar from the European Union, as well as continuation of the antidumping findings on sugar from Belgium, France, and Germany.

Sugar Cane Growers

Sugar cane production in the United States occurs in four states: Florida, Hawaii, Louisiana, and Texas. At the time of the Commission's original investigations, Hawaii was noted for having the highest yields of sugar cane per acre in the world.[94] In 1978, there were believed to be at least 300 sugar cane farms in Hawaii, down from at least 500 one year before. Five large corporations, known as the "Five Factors," accounted for more than 95 percent of Hawaiian sugar cane acreage and production.[95] Nearly all the raw cane sugar produced in Hawaii at the time of the original investigations was refined on the U.S. mainland by California and Hawaiian Sugar Co. ("C&H"), (then) a cooperative marketing association.

Between 1974 and 1978, periods examined in the Commission's original investigations, the number of farms producing sugar cane in Florida increased from 136 to 153, though the bulk of cane production was accounted for by a few large farms.[96] Most of this cane production was also accounted for by farms owned by the state's eight sugar cane millers. One such firm, United States Sugar Corp., was identified as the largest grower of sugar cane in the United States at the time. In contrast, the number of cane farms in Louisiana declined between 1974 and 1978 from 1,290 to less than 1,100, and was believed to have declined further by 1982. More than one-half of Louisiana cane production was accounted for by the owners of the state's 31 cane millers.

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[91] Southern Minnesota was a co-owner of United Sugars Corp. from its creation in 1993 until 2004, when it entered into a marketing agreement with Cargill.

[92] Domestic industry's response to the notice of institution, October 21, 2004, p. 44.

[93] Ibid.

[94] *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982, p. A-10.

[95] The five corporations were: Alexander & Baldwin, Inc.; Amfac, Inc.; C. Brewer & Co., Ltd.; Castle & Cooke, Inc.; and Theodore H Davies & Co., Inc. Ibid.

[96] Ibid.

Sugar cane farming in Texas began in the 1973/74 crop year. By 1978, there were 105 farms producing sugar cane in Texas, and it was believed that this number was increasing. One sugar mill, owned by a cooperative of growers, processed all cane produced in the state.[97]

USDA statistics indicate that in 2004, Florida accounted for half of total U.S. sugar cane production, followed by Louisiana (37 percent), Hawaii (8 percent), and Texas (5 percent).[98] These proportions have remained relatively unchanged since the Commission's first five-year reviews.

Sugar cane was produced in Puerto Rico at the time of the Commission's original investigations and first reviews. The number of farms producing sugar cane at the time of the Commission's original investigations was noted to be in "severe decline."[99] Most of the cane acreage and milling capacity in Puerto Rico was owned or leased by the Sugar Corp. of Puerto Rico, characterized at the time of the original investigations as a "quasi-Government corporation." Cane and raw sugar production continued to decline in Puerto Rico in the ensuing years, and in 2000, the Sugar Corp. of Puerto Rico sold its remaining sugar producing assets to a collection of cane growers and mill operators. In 2004, the USDA eliminated Puerto Rico's cane sugar marketing allotments, noting that "production and processing ceased there more than two years ago."[100]

The number of cane growing farms in the United States was not specifically estimated in the Commission's first five-year reviews.[101] The U.S. industry did not provide any estimate of the number of sugar cane growers in the United States in its response to the Commission's notice of institution in the present reviews.

Sugar Cane Millers

Because it becomes increasingly difficult to recover sucrose from sugar cane once it has been cut, sugar cane mills are located close to cane producing areas. Between 1976 and 1981, the number of cane milling companies in the United States remained stable at about 45 (40 mainland, and 5 Hawaiian). At the time of the Commission's first reviews, there were 26 cane milling companies, operating 33 mills in Florida, Hawaii, Louisiana, Puerto Rico and Texas. Since then, eight cane milling companies, operating ten mills, have exited the sugar industry, while one further mill, operated by an existing miller, was also shut down. A list of current cane milling firms, their mills locations, and their shares of the fiscal year 2005 overall marketing allotment quantity is presented in table I-10.

Florida Crystals Corp. ("Florida Crystals") is the largest U.S. miller of cane sugar, based on its combined allocation of total U.S. marketing allotments (*** percent). The company owns Okeelanta Corp. and Osceola Farms Co., and is an ***.[102] Florida Crystals is followed by United States Sugar

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[97] *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982, p. A-11. There continues to be only one Texas-based miller of sugar cane, Rio Grande Valley Sugar Growers, Inc.

[98] USDA's *Sugar and Sweetener Yearbook*, table 15, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

[99] The number of farms producing sugar in Puerto Rico declined from 1,932 in 1974 to 1,425 in 1978. *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982, p. A-11.

[100] *USDA Announces 2004 Crop Sugar Marketing Allotments and Allocations*, USDA News Release No. 0422.04, September 28, 2004. A 1998 USDA article attributed the decline of the sugar industry in Puerto Rico to a host of problems, including high production costs, outdated equipment, lack of capital investment, labor shortages, problems associated with urbanization, and the ill effects of hurricanes. "The Rise and Decline of Puerto Rico's Sugar Economy," *Sugar and Sweetener S&O*, No. SSS-224, December 1998.

[101] The Commission's report in the first reviews noted only that U.S. cane sugar growers "number in the hundreds." *First Review Determinations*, USITC Publication 3238, September 1999, p. I-40.

[102] ***'s response to the millers' questionnaire, exh. A.

Table I-10
Sugar: Cane millers, plant locations, and share of Federal fiscal year 2005 overall allotment quantity

Cane milling (parent) firm	Plant location(s)	Share of FY 2005 OAQ (*percent*)
Florida		
Atlantic Sugar Assn.	Belle Glade, FL	1.9
Okeelanta Corp. (Florida Crystals)	South Bay, FL	5.0
Osceola Farms Co. (Florida Crystals)	Pahokee, FL	2.9
Sugar Cane Growers. Coop. of Florida	Belle Glade, FL	4.8
United States Sugar Corp.[1]	Bryant, FL Clewiston, FL	9.4
Hawaii		
Gay & Robinson, Inc.	Kaumakani, Kauai, HI	0.9
Hawaiian Commercial & Sugar Co.	Puunene, HI	2.6
Louisiana		
Alma Plantation Ltd.	Lakeland, LA	1.0
Cajun Sugar Coop.	New Iberia, LA	1.4
Cora Texas Manufacturing Co.	White Castle, LA	0.7
Harry Laws & Co.	Port Allen, LA	1.7
Iberia Sugar Coop.[2]	New Iberia, LA	0.6
Jeanerette Sugar Co.[2]	Jeanerette, LA	0.7
Lafourche Sugars Corp.	Thibodaux, LA	1.0
Louisiana Sugar Cane Coop.	St. Martinville, LA	1.0
Lula-Westfield LLC	Belle Rose, LA Paincourtville, LA	2.0
M.A. Patout & Son, Ltd.	Franklin, LA Jeanerette, LA Raceland, LA	4.0
St. Mary Sugar Coop.	Jeanerette, LA	1.1
South Louisiana Sugars Coop.	St. James, LA	1.0
Texas		
Rio Grande Valley Sugar Growers, Inc.	Santa Rosa, TX	2.1

[1] ***.
[2] Ceased production in 2005.

Source: Compiled from information contained in *Domestic Sugar Program–2005–Crop Sugar Marketing Allotments and Company Allocations*, 69 FR 76684, December 22, 2004; and *U.S. Sugar Industry Directory*, included at exh. 22 of the domestic industry's response to the notice of institution, October 21, 2004.

Corp., the Sugar Cane Growers Coop. of Florida, and M.A. Patout & Son, Ltd., which account for 9.4 percent, 4.8 percent, and 4.0 percent of the 2005 overall allotment quantity, respectively. The remaining milling firms each account for less than 3 percent of the total U.S. OAQ.

Although they appear in table I-10, Louisiana's Jeanerette Sugar Co. and Iberia Sugar Coop. both ceased production in 2005. Jeanerette's unfulfilled marketing allotment for fiscal year 2005 will, according to a company official, be distributed among the *** Louisiana millers to which Jeanerette's former member-growers currently supply their cane: ***[103] Iberia's sales of raw sugar ***.[104]

Eighteen out of the 19 U.S. cane milling firms support continuation of the countervailing duty order on sugar from the European Union, while 17 of the 19 firms support continuation of the antidumping findings on sugar from Belgium, France, and Germany.[105]

Cane Sugar Refiners

In 1982, there were 21 cane sugar refineries in the United States, operated by 11 companies and one cooperative, located mainly on the east and gulf coasts.[106] At the time of the original investigations, cane refiners were the principal importers of sugar into the United States, obtaining about 60 percent of their raw sugar input from foreign sources in 1975. Cane refiners were believed to account for "about 70 percent" of sugar consumed in the mainland United States at the time. By 1999, the number of refineries operating in the United States (and Puerto Rico) had decreased to 12, operated by seven companies. These firms accounted for 54 percent of total U.S. refined sugar production in 1998 (from beets and cane).[107] In the years leading to the Commission's first reviews, the refining sector underwent vertically integrated consolidation, with cane millers purchasing refineries with a view towards ensuring refining capacity for their raw sugar in the face of increasing refinery closures.[108]

The cane refining sector of the U.S. sugar industry currently consists of eight refineries, operated by five firms. Table I-11 presents the share of U.S. refined sugar production accounted for by each of these companies. In November 2001, Sugar Cane Growers Coop. of Florida and affiliates of Florida Crystals jointly purchased Domino Sugar Co.'s refineries from U.K.-based Tate & Lyle.[109] These three entities together accounted for *** percent of U.S. refined sugar production in 1998. American Sugar Refining, Inc. ("ASRI"), the newly created refining company, closed one of its four plants (in Brooklyn, NY) in January 2004.[110] ASRI ***, accounting for *** percent of U.S. refined cane sugar production in 2004.

Imperial, ***, closed two refineries between 1999 and 2004. The company's remaining facilities accounted for *** percent of refined cane sugar production in 2004. Imperial is the only U.S. firm engaged in the production of both refined beet and refined cane sugar.

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[103] Staff telephone interview with ***, Jeanerette Sugar Co., May 24, 2005.

[104] Staff telephone interview with ***, Iberia Sugar Coop., July 7, 2005.

[105] *** took no position on revocation of either the countervailing duty order or the antidumping findings under review. *** took no position on revocation of the antidumping findings on sugar from Belgium, France, and Germany.

[106] *Original Countervailing Duty Determination*, USITC Publication 1247, May 1982, p. A-11.

[107] *First Review Determinations*, USITC Publication, September 1999, p. I-31.

[108] Ibid.

[109] Although it is a separate legal entity, American Sugar Refiners, Inc. is majority owned by the owners of Florida Crystals. The two firms submitted separate responses to the Commission's processors'/refiners' questionnaire. ASRI also submitted trade and financial data for Tate & Lyle for the period prior to its acquisition.

[110] ASRI attributes the closure of its Brooklyn refinery to "***." ASRI's response to the processors'/refiners' questionnaire, p. 12.

Table I-11
Sugar: U.S. cane refiners, plant locations, and share of 2004 U.S. cane sugar production

Cane refining firms	Refinery location(s)	Share of 2004 cane sugar production (*percent*)
American Sugar Refining, Inc.	Arabi, LA Baltimore, MD Yonkers, NY	***
Florida Crystals Corp.	South Bay, FL	***
C & H Sugar Co., Inc.	Crockett, CA	***
Imperial Sugar Co.	Gramercy, LA Port Wentworth, GA	***
United States Sugar Corp.	Clewiston, FL	***

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

As noted above, Sugar Corp. of Puerto Rico, responsible for *** percent of U.S. refined sugar production in 1998, exited the industry in 2000. U.S. refiners of raw cane sugar universally support continuation of the countervailing duty order on sugar from the European Union, as well as continuation of the antidumping findings on sugar from Belgium, France, and Germany.

U.S. Importers

The Commission sent importers' questionnaires to 53 firms identified as having imported sugar between 1999 and 2004, based on proprietary Customs data, as well as to all five U.S. refiners of raw cane sugar. Responses were received from 27 firms, including all five U.S. cane sugar refiners. Fourteen responding firms, including one cane sugar refiner, certified that they had not imported sugar subject to the antidumping findings and countervailing duty order under review from any source since 1999. Imports by firms that reported data in response to the Commission's importers' questionnaires were equivalent to 113 percent of official U.S. sugar imports in 2004.[111] U.S. cane sugar refiners were by far the largest importers of sugar during the period examined in these reviews. Three refiners, ***, accounted for 96 percent of reported U.S. sugar imports between 1999 and 2004.[112] *** alone accounted for *** percent of total reported imports over this period, followed by *** (*** percent) and *** (*** percent). No U.S. refiners reported any sugar imports from the current 25 EU member-states.

Of the firms that provided import data in response to the Commission's questionnaire, only one, ***, reported any imports of sugar from the EU. The company reported importing *** short tons of sugar from *** in 2003, *** short tons in 2004, and *** short tons in the first quarter of 2005.

No U.S. processors, refiners, millers, or growers are currently believed to be owned by, or related to, foreign sugar producers.

[111] The discrepancy between reported import data and official import statistics is likely due to differences in reporting periods and products, as well as to adjustments made in official statistics to reflect the polarity of individual sugar imports.

[112] U.S. importers reported import data on a calendar year basis.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Official statistics, compiled by USDA, relating to U.S. production, imports, and consumption of sugar are presented in table I-12. As noted above, under the provisions of the 2002 Farm Act, the Secretary of Agriculture is required to establish TRQ import levels and domestic marketing allotments based on estimates of sugar consumption and carryover stocks at the end of each crop year. USDA's projections for fiscal year 2006 are included in table I-12.

According to these official statistics, U.S. consumption of sugar has remained stable since the Commission's first five-year reviews. Between 1999 and 2004, total U.S. shipments of sugar decreased by 2 percent, from 10.1 million to 9.9 million STRV, without much variance in the years between. According to these data, U.S. production of sugar increased by 3 percent between 1999 and 2004, from 8.4 million to 8.6 million STRV, albeit with volatility over the five-year period. Between 2000 and 2002, for instance, U.S. sugar production declined by 13 percent, and then increased by 9 percent between 2002 and 2004. The USDA's data indicate that U.S. sugar imports declined by 16 percent between 1999 and 2002, then increased by 14 percent between 2002 and 2004. These data project a decline in imports in 2005 and 2006.

Based on USDA statistics, imports accounted for between 15-18 percent of U.S. sugar shipments over the period examined in these reviews. U.S. producers' share of U.S. shipments showed a larger variance over the period examined, accounting for 90 percent of U.S. shipments in 2000, for instance, and 79 percent in 2002[113] U.S. production and imports or sugar both decreased relative to total U.S. shipments in 2002, owing to a drawing down of sugar stock (or inventory) levels. USDA projects a decline in both U.S. producers' and imports' share of domestic sugar shipments in 2006, again as a result of a substantial projected decrease in the level of sugar stocks in 2005 and 2006.

Table I-13 presents apparent U.S. consumption data based on official Commerce statistics (for imports) and the questionnaire responses of U.S. sugar processing firms (for domestic shipments data), while table I-14 presents U.S. producers' and imports' share of the U.S. sugar market on the same basis. Based on these data, the quantity of apparent U.S. consumption remained virtually unchanged over the period examined, varying by less than five percent from its 1999 level of 11.5 million STRV. U.S. producers' share of apparent U.S. consumption increased between 1999 and 2000, from 84 percent to 87 percent, then declined through 2004 to 85 percent. Imports from the European Union[114] were virtually non-existent between 1999 and 2004, totaling no more than 1,000 short tons in any year of the period.

Historical data relating to U.S. sugar consumption, based on official USDA statistics, are presented in table I-15 and figure I-1.

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[113] The diversion of domestic or imported sugar into (or out of) stocks, either privately held or administered by the CCC, can result in a total U.S. shipment quantity that is less than (or greater than) the sum of U.S. production and U.S. imports (*see* table I-12).

[114] On May 1, 2004, ten new member states acceded to the European Union: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia. Throughout this report, the term "European Union" refers to the 15 pre-accession member states for periods up to May 2004, and to the enlarged, 25-member Union for the period after May 1, 2004. Where available, data for European Union countries have been presented separately for (1) the 15 pre-enlargement members ("EU-15"), (2) the ten new member states ("EU-NMS"), and (3) all 25 countries currently comprising the European Union ("EU-25").

Table I-12
Sugar: U.S. production, imports, and consumption, Federal fiscal years 1999-2004

Item	Fiscal year							
	1999	2000	2001	2002	2003	2004	2005[1]	2006[2]
	Quantity (*1,000 short tons raw value*)							
Beginning stocks	1,679	1,639	2,216	2,180	1,528	1,670	1,897	1,476
U.S. production:								
Beet sugar	4,421	4,974	4,680	3,915	4,462	4,692	4,721	4,443
Cane sugar	3,945	4,076	4,089	3,985	3,964	3,957	3,389	3,709
Total production	8,366	9,050	8,769	7,900	8,426	8,649	8,109	8,151
U.S. imports:								
TRQ imports	1,256	1,124	1,277	1,158	1,210	1,226	1,209	1,206
Other imports	567	512	314	377	520	524	520	385
Total imports	1,823	1,636	1,590	1,535	1,730	1,750	1,729	1,591
Total U.S. supply	11,868	12,325	12,575	11,615	11,684	12,070	11,736	11,218
U.S. shipments:								
Food & beverage	9,873	9,993	10,000	9,785	9,504	9,678	9,875	9,950
Other[3]	193	118	132	188	207	183	145	165
Total shipments	10,066	10,111	10,132	9,974	9,711	9,861	10,020	10,115
U.S. exports	230	124	141	137	142	288	240	200
Ending stocks	1,639	2,216	2,180	1,528	1,670	1,897	1,476	903
	Ratio (*percent*)							
Stocks to use ratio[4]	16.0	22.0	21.0	15.2	16.7	18.7	14.4	8.8
	Share of total U.S. shipments (*percent*)[5]							
U.S. production	83	90	87	79	87	88	81	81
U.S. imports	18	16	16	15	18	18	17	16

[1] Data for fiscal year 2005 are estimates as of May 2005.
[2] Data for fiscal year 2006 are USDA projections.
[3] Includes sugar transferred to sugar-containing products and alcohols, intended for re-export, as well as sugar intended for non-human consumption (e.g., animal feed).
[4] Ratio of ending stocks to total U.S. sugar use (i.e., total shipments plus exports).
[5] Due to the presence of sugar stocks (or inventories), total U.S. shipments of sugar may exceed (or be less than) the sum of U.S. sugar production and U.S. sugar imports.

Note.–Due to rounding and statistical adjustments in the original data, items may not add to the totals shown.

Source: Reproduced from data in the USDA's *Sugar and Sweetener Yearbook*, table 24, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

Table I-13
Sugar: U.S. processors' shipments, U.S. imports, and apparent U.S. consumption, 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 short tons raw value*)					
U.S. producers' U.S. shipments	9,684	10,294	10,173	9,577	9,789	9,602
U.S. imports from--						
Belgium	(1)	(1)	1	(1)	(1)	(1)
France	(1)	(1)	(1)	(1)	(1)	(1)
Germany	(1)	(1)	(1)	(1)	(1)	(1)
Other EU-15	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-15)	(1)	1	1	(1)	(1)	1
EU-NMS	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-25)	(1)	1	1	1	(1)	1
Other sources	1,828	1,495	1,500	1,423	1,598	1,658
Total imports	1,828	1,495	1,500	1,423	1,598	1,659
Apparent consumption	11,512	11,789	11,674	11,000	11,387	11,261
	Value (*$1,000*)					
U.S. producers' U.S. shipments	4,988,565	4,907,420	4,650,711	4,809,242	5,015,181	4,808,547
U.S. imports from--						
Belgium	157	401	434	180	257	321
France	53	75	143	285	309	1,058
Germany	23	11	22	10	18	53
Other EU-15	218	299	225	179	72	230
Subtotal (EU-15)	450	786	824	654	656	1,663
EU-NMS	14	22	43	14	18	38
Subtotal (EU-25)	464	807	867	668	674	1,701
Other sources	627,752	523,288	563,743	554,511	620,691	591,342
Total imports	628,216	524,096	564,610	555,180	621,365	593,042
Apparent consumption	5,616,781	5,431,515	5,215,321	5,364,421	5,636,546	5,401,589

[1] Less than 500 short tons.

Note.–Due to rounding, items may not add to totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table I-14
Sugar: U.S. market shares, crop years 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 short tons raw value*)					
Apparent consumption	11,512	11,789	11,674	11,000	11,387	11,261
	Value (*1,000 dollars*)					
Apparent consumption	5,616,781	5,431,515	5,215,321	5,364,421	5,636,546	5,401,589
	Share of quantity (*percent*)					
U.S. producers' U.S. shipments	84.1	87.3	87.1	87.1	86.0	85.3
U.S. imports from-- Belgium	(1)	(1)	(1)	(1)	(1)	(1)
France	(1)	(1)	(1)	(1)	(1)	(1)
Germany	(1)	(1)	(1)	(1)	(1)	(1)
Other EU-15	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-15)	(1)	(1)	(1)	(1)	(1)	(1)
EU-NMS	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-25)	(1)	(1)	(1)	(1)	(1)	(1)
Other sources	15.9	12.7	12.8	12.9	14.0	14.7
Total imports	15.9	12.7	12.9	12.9	14.0	14.7
	Share of value (*percent*)					
U.S. producers' U.S. shipments	88.8	90.4	89.2	89.7	89.0	89.0
U.S. imports from-- Belgium	(1)	(1)	(1)	(1)	(1)	(1)
France	(1)	(1)	(1)	(1)	(1)	(1)
Germany	(1)	(1)	(1)	(1)	(1)	(1)
Other EU-15	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-15)	(1)	(1)	(1)	(1)	(1)	(1)
EU-NMS	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal (EU-25)	(1)	(1)	(1)	(1)	(1)	(1)
Other sources	11.2	9.6	10.8	10.3	11.0	10.9
Total imports	11.2	9.6	10.8	10.3	11.0	11.0

[1] Less than 0.05 percent.

Note.–Due to rounding, items may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

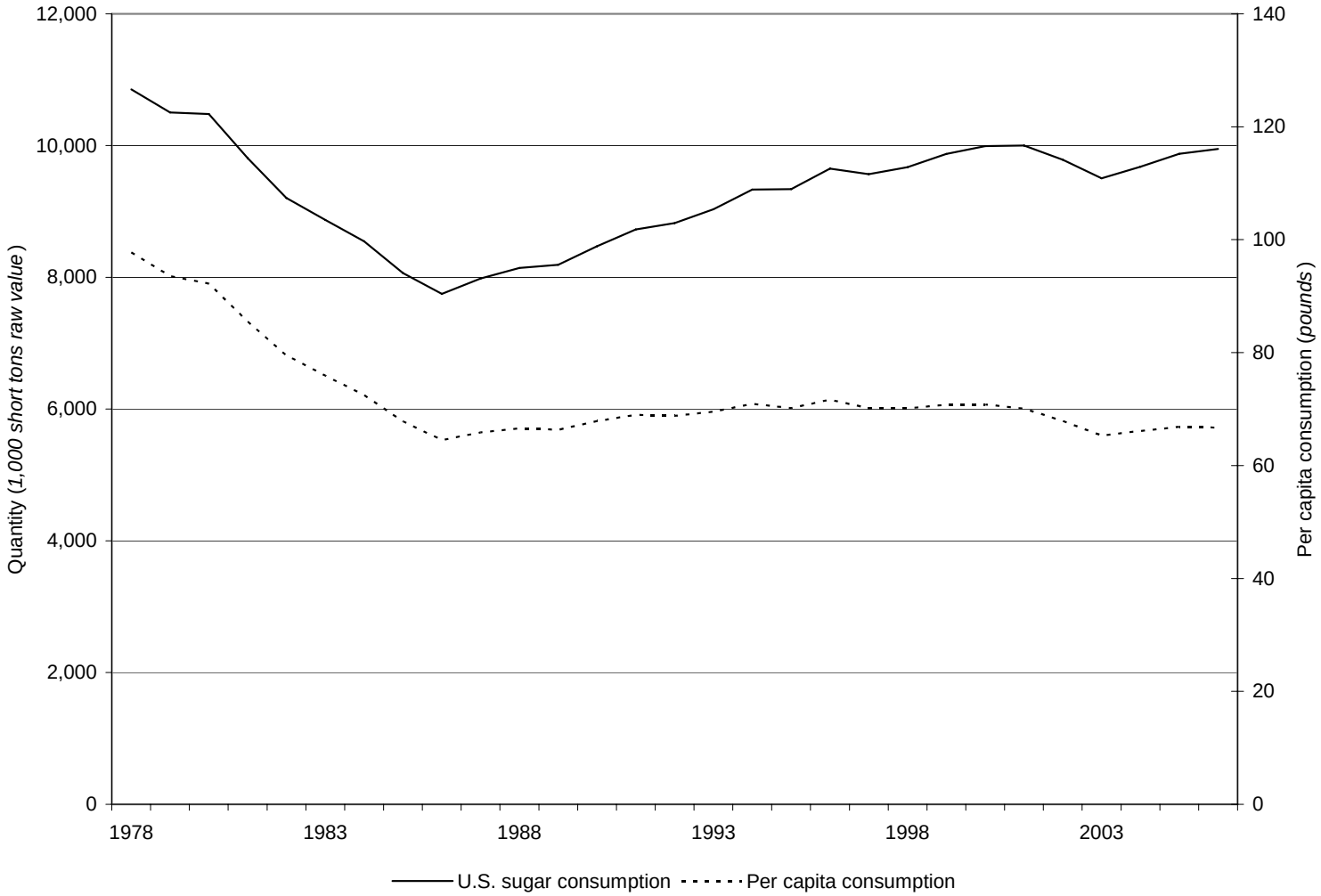
Table I-15
Sugar: U.S. consumption, Federal fiscal years 1978-2006

Fiscal year	Sugar consumption (*1,000 short tons raw value*)	U.S. population (*1,000*)	Per capita consumption (*pounds*)
1978	10,853	222,095	97.7
1979	10,503	224,567	93.5
1980	10,479	227,225	92.2
1981	9,810	229,466	85.5
1982	9,206	231,664	79.5
1983	8,874	233,792	75.9
1984	8,546	235,825	72.5
1985	8,065	237,924	67.8
1986	7,747	240,133	64.5
1987	7,981	242,289	65.9
1988	8,141	244,499	66.6
1989	8,189	246,819	66.4
1990	8,471	249,623	67.9
1991	8,725	252,981	69.0
1992	8,826	256,514	68.8
1993	9,034	259,919	69.5
1994	9,333	263,126	70.9
1995	9,340	266,278	70.2
1996	9,650	269,394	71.6
1997	9,564	272,647	70.2
1998	9,672	275,854	70.1
1999	9,873	279,040	70.8
2000	9,993	282,224	70.8
2001	10,000	285,318	70.1
2002	9,785	288,369	67.9
2003	9,504	291,049	65.3
2004	9,678	292,801	66.1
2005[1]	9,875	295,507	66.8
2006[1]	9,950	298,217	66.7

[1] Consumption data for 2005 and 2006 are estimates. Population data for 2005 and 2006 are projections.

Source: Consumption data are compiled from official USDA statistics, retrieved at (or through) *www.ers.usda.gov*. Population data are compiled from official U.S. Census Bureau statistics, retrieved at *www.census.gov/statab/www/*.

Figure I-1
Sugar: U.S. consumption, 1978-2006



Source: Table I-15.

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

OVERVIEW

The world sugar market comprises virtually the entire global population, as sugar is a basic food item consumed throughout the world. There are a large number of producing countries, although production is somewhat concentrated. About one-third of world sugar production is traded, with a handful of countries dominating exports. The United States is a major, although not the leading, producer, importer, and consumer of sugar; U.S. sugar exports are relatively minor. In 2004, the United States ranked fifth among world producers and consumers of sugar, fifth among global importers, and 20th among exporters (*see* Part IV). The EU is a major producer, importer, exporter, and consumer of sugar. In 2004, the EU15 ranked second in global sugar production, imports, and consumption, and was the world's second leading sugar exporter (*see* Part IV). Other major global sugar market participants include Brazil (leading producer and exporter), India (leading consumer), Thailand (second leading exporter), and China (third leading consumer, fourth leading producer).

World production of and trade in sugar is dominated by cane sugar (*see* Part IV). Brazil is the dominant producer and exporter of cane sugar, and the EU is the leader with respect to beet sugar. Raw sugar, the bulk of which is from sugar cane, is the principal product form traded (*see* Part IV).

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

In the United States sugar is commonly used in industrial applications including the manufacture of baked goods, ice cream, confections, and beverages, and for direct consumer use. Breakouts of deliveries to industrial and nonindustrial markets are shown in table II-1. The share of deliveries going to these different end uses has been relatively stable during the 1999-2004 period.

Sugar cane is produced in just four states, Florida, Louisiana, Hawaii, and Texas, while significant quantities of beet sugar are produced in 12 states, with the largest including Minnesota, Michigan, Idaho, North Dakota, and California. U.S. beet sugar has exceeded cane sugar production in all but one of the last 16 crop years.

U.S.-produced sugar is marketed in all areas of the continental United States including the Northeast, the Mid-Atlantic area, the Midwest, the Southeast, the Southwest, the Rocky Mountains, the West Coast, and the Northwest. However, most of the individual reporting processors/refiners do not sell in all areas of the United States.

The majority of U.S. processors/refiners reported that they sell from inventory. Seven of ten responding firms reported that 100 percent of their sales are from inventory. For the other three firms, one reported that 85 percent of its sales are from inventory with 15 percent produced to order, one reported that 75 percent are from inventory and 25 percent are produced to order, and the other reported a breakdown of 95 percent inventory and 5 percent produced to order. While delivery lead times vary, they most typically range from 8 to 10 days.

The sugar industry tends to be relatively concentrated at the processor/refiner level. The combined volume of total shipments by the four largest processor/refiners, American Crystal Sugar, American Sugar Refining, Imperial Sugar, and Amalgamated Sugar, amounted to about 70 percent of total U.S. shipments in 2004 and about 63 percent of total U.S. consumption in that year.[1] At the same time, competition from imports from all sources is limited due to the TRQ, and imports from the EU are restricted even more due

[1] In some cases, refined sugar produced by beet sugar processors is marketed by separate entities. For example, Cargill markets sugar for Southern Minnesota, and Domino markets sugar for American Sugar Refining (see Domestic industry's response to the notice of institution, October 21, 2004, p. 43).

Table II-1
Sugar: U.S. deliveries of refined sugar by major uses, 1999-2004

Type of product	1999	2000	2001	2002	2003	2004
	Share of total industrial uses (percent)					
Industrial use: Baked goods and related products	25	24	24	22	22	23
Confections and related products	14	14	14	13	12	12
Ice cream	5	5	5	6	6	6
Beverages	2	2	2	2	2	3
Other industrial use	14	13	13	12	11	12
Total industrial use	60	59	58	55	54	56
Nonindustrial use: Wholesale grocers	24	24	24	26	28	27
Retail grocers	13	13	13	14	14	14
Other nonindustrial use	3	4	5	5	4	4
Total nonindustrial use	40	41	42	45	46	44
Total use	100	100	100	100	100	100

Source: "Sweetener Market data" Farm Service Agency, USDA.

to antidumping duties and countervailing duties. Price is an important consideration in purchasing decisions in this industry as discussed later in this section.

U.S. SUPPLY: DOMESTIC PRODUCTION FOR THE U.S. MARKET

The highly regulated nature of the sugar industry limits the flexibility of the U.S. processors/refiners in adjusting output in response to price changes. While there are no controls on the amount of sugar produced, sales by individual processors/refiners are limited by marketing allotments that specify the amount of sugar that they may sell during a given crop year.[2]

Despite the complications resulting from the sugar program, the supply response of domestic sugar processors/refiners to changes in price depends to some extent on such factors as the level of excess capacity, inventory levels, the availability of alternate markets for U.S.-produced sugar, and the ability to shift to the production of other products. The capacity utilization rates during 1999-2004 ranged from a low of 80.0 percent in 1999 to a high of 92.3 percent in 2002. During January-March 2005, the capacity utilization rate was 80.1 percent as compared to 82.2 percent during January-March 2004. Exports have ranged from minimal levels in some years to 2.3 percent of U.S. shipments in 2004. During January-March 2005, they were equal to 2.5 percent of U.S. shipments. The ratio of end-of-period inventories to

[2] Domestic industry's response to the notice of institution, October 21, 2004, p. 45.

U.S. shipments ranged from 9 to 12 percent during 1999-2004. None of the U.S. processors/refiners reported making any other products on the equipment used to produce refined sugar.

Processors/refiners were asked to describe how easily they could shift sales of sugar from the United States to alternative country markets. All of the responding processors reported that such a shift would be very difficult or impossible. They cited various obstacles to such a shift including high transportation costs for shipping sugar, high tariffs in other markets, and competition from low-cost alternatives in these other markets.

U.S. SUPPLY: THE POTENTIAL OF SUBJECT IMPORTS TO SUPPLY U.S. MARKET

Public information concerning the sugar industry in the EU indicates that it likely has significant economic potential for shifting exports of refined sugar to the United States from other countries. The EU is the world's second largest producer of sugar behind Brazil and is also a major exporter of refined sugar. Its potential for increasing exports to the United States is presently very limited because of the high countervailing duties applying to all EU producers and the high antidumping duties currently in effect on producers in Belgium, France, and Germany. Even if these duties were not in effect, the TRQ under the U.S. sugar program would still provide some restraining effect on exports to the United States.

U.S. SUPPLY: NONSUBJECT IMPORTS

Public information on nonsubject imports also indicates the that world's largest producer and exporter of sugar, Brazil, as well as other nonsubject countries, could potentially divert shipments from other markets to the United States. However, again, the TRQ in effect in the United States restricts the potential for an expansion in exports from nonsubject sources.

U.S. DEMAND

Demand Characteristics

The overall demand for sugar in the United States depends upon the demand for sugar in industrial and in nonindustrial markets as discussed earlier. The overall demand for sugar, as measured by annual U.S. apparent consumption, remained relatively stable overall during the 1999-2004 period ranging from a high of 11.8 million short tons in 2000 to a low of 11.0 million short tons in 2002.[3]

Individual processors/refiners and purchasers were asked whether demand in the United States had increased, remained unchanged, or decreased since 1999. Of the 11 processors that responded to the question, four reported that demand had increased, six reported that it had decreased, and two reported that it had remained unchanged. Of the 22 purchasers that responded, seven reported that demand had increased, nine stated that it had decreased, and six reported that it had remained unchanged. In general, producers and purchasers that reported an increase in demand attributed the increase to a growing population. Those that reported a decrease in demand cited various factors such as a linking of obesity to excessive sugar consumption, the general popularity of low carbohydrate diets, and increased imports of products that contain sugar.

[3] U.S. apparent consumption is based on data submitted in response to Commission questionnaires and from official Commerce statistics. Other public data for sugar consumption on a per capita basis indicate a decline over the period 1999-2004 (see table II-2).

Substitute Products

Producers, importers, and purchasers asked to list any products that can be used as substitutes for sugar, and to describe the end uses and applications of these substitutes. All producers, most purchasers, and one importer listed various substitutes. The most commonly reported substitutes were high fructose corn syrup ("HFCS") and other corn syrups, and artificial sweeteners including sucralose and aspartame. A breakout of per capita consumption of sugar, HFCS, and other corn syrups for 1999-2004 is presented in table II-2. HFCS is used primarily in beverages. While HFCS is less expensive than sugar, questionnaire respondents stated that applications that can easily switch to HFCS have already done so.[4] In the case of the other important substitutes, sucralose is commonly used in beverages, cereals, bakery products, and as a table top sweetener, while aspartame is used principally in beverages.

Table II-2
Sugar: Per capita deliveries of refined sugar, high fructose corn syrup, glucose syrup, and dextrose syrup, 1999-2004

Year	Refined sugar	HFCS	Glucose syrup	Dextrose syrup
	Pounds per capita dry weight			
1999	66.3	63.7	16.3	3.5
2000	65.5	62.6	15.8	3.4
2001	64.5	62.5	15.5	3.3
2002	63.2	62.8	15.4	3.3
2003	60.9	60.9	15.2	3.1
2004	61.9	59.4	15.6	3.3

Source: Compiled from USDA Economic Research Service statistics (last updated 5/26/05).

Cost Share

Purchasers that use sugar in industrial applications were asked to estimate the cost of sugar as a percentage of the products that they produce. The results were widely varied depending upon the application. Estimated costs were 40 percent for muffins, as much as 30 percent for cakes, 50 percent for cake mixes, 25 to 28 percent for icing, and 28 percent for brownies. The cost for both ice cream and for coffee creamers was 25 percent. Estimates of the cost for breakfast cereals were less than 15 percent, and estimates for beverages ranged from less than 2 percent to more than 50 percent. The estimated costs for peanut butter and for spreadable fruit were 10 percent and 25 percent respectively.

SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic products and subject imports, between domestic products and nonsubject imports, and between subject and nonsubject imports is examined in this section. Much of the discussion is based on information developed from processors/refiners and purchaser

[4] The market for HFCS has matured; shipments declined slightly from about 12.0 million short tons in 1999 to approximately 11.9 million short tons in 2003 after having risen from 1.7 million short tons in 1979 (Corn Refiners Association, Inc. Corn Annual, various issues).

questionnaire responses. However, in most cases, questionnaire respondents were not familiar with sugar produced in the subject countries.

Of the 23 purchasers that provided questionnaire responses, 12 are industrial end users, seven are distributors, three are both retailers and distributors, and one is an industrial end user, retail end user, and distributor. Some of the distributors process sugar further before selling it. Twenty of the purchasers bought only U.S.-produced refined sugar during the 1999-2004 period, and three bought both U.S.-produced and imported sugar from nonsubject countries, including Canada and Mexico during this period. None of the purchasers bought any sugar imported from the subject countries.

Factors Affecting Purchasing Decisions

When purchasers were asked to rank the three most important factors in purchasing decisions, quality and price were both commonly ranked among the top three factors among the 23 responding purchasers. Availability was also an important consideration (*see* table II-3) for some purchasers.

Table II-3
Sugar: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	0	1	3
Price	10	7	5
Quality	7	7	4
Other[1]	6	8	11

[1] Other factors include delivery cost, meeting specifications and service.

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

In addition to these rankings, purchasers were also asked to report whether the factors shown in table II-4 are very important, somewhat important, or not very important in their purchasing decisions. The results indicate that price, reliability of supply, availability, and product consistency are the most important considerations.

Comparisons of Domestic Products and Subject Imports

In order to assess the degree of interchangeability between U.S.-produced sugar and imported sugar from the subject countries, questionnaire respondents were asked whether sugar from the different sources can always, frequently, sometimes, or never be used interchangeably. Among the 11 responding U.S. processors/refiners, three reported that imports from Belgium, France, Germany, and the expanded EU are always interchangeable with the U.S. product, and one reported that imports from all of these sources are frequently interchangeable. A fifth processor/refiner reported that imports from France, Germany, and the EU as it existed before May 1, are always interchangeable with the U.S. product, but this processor/refiner did not compare the United States with imports from Belgium or the expanded EU. A sixth processor/refiner reported that imports from Belgium, France, Germany, and the EU as it existed before May 1, are always interchangeable with the U.S. product and are sometimes interchangeable with imports from the additional 10 countries that joined the EU. The other six processors/refiners did not make any comparisons of interchangeability. One importer that brings small quantities of sugar into the United States from Belgium stated that its imports are sometimes interchangeable with U.S.-produced

Table II-4
Sugar: Importance of purchasing factors, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	22	1	0
Delivery terms	14	9	0
Delivery time	18	5	0
Discounts offered	11	11	1
Extension of credit	8	9	6
Price	23	0	0
Minimum quantity requirements	3	13	7
packaging	13	6	4
Product consistency	21	2	0
Quality meets industry standards	20	2	1
Quality exceeds industry standards	15	6	2
Product range	9	13	1
Reliability of supply	23	0	0
Technical support/service	12	8	3
U.S. transportation costs	19	4	0

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

sugar while another importer stated that they are always interchangeable. A third importer that imports solely from nonsubject countries stated that imports from Belgium, France, Germany, and the original 15-member EU are always interchangeable with the U.S. product. One purchaser reported that U.S.-produced sugar is always interchangeable with all EU imports and another reported that U.S.-produced sugar is frequently interchangeable with all EU imports. A third purchaser reported that U.S.-produced sugar is always interchangeable with imports from Belgium, France, and Germany, and frequently interchangeable with imports from other EU countries. None of the other purchasers compared U.S. products with imports from the subject countries.

Processor/refiners and importers were also asked whether differences in factors other than price between U.S.-produced sugar and imports from the subject countries have a significant effect on sales. Four U.S. processors/refiners reported that product differences between the United States and all of the subject countries always have a significant effect on sales and one reported that the differences are never significant. One processor/refiner stated that the differences are never significant for Belgium, France, Germany, and the other original 15 EU members, but are sometimes significant for the 10 new countries that entered the EU. Six processor/refiners did not respond to the question. One importer reported that product differences between the United States and Belgium always have a significant effect on sales.

Comparisons of Domestic Products and Nonsubject Imports

Questionnaire respondents were also asked to compare the interchangeability of U.S.-produced sugar with imports from the nonsubject countries. Among processors/refiners, two firms reported that the products are always interchangeable and two reported that they are frequently interchangeable, two reported that they are frequently interchangeable, two reported that they are sometimes interchangeable, and six did not respond to the question. One importer reported that they are always interchangeable and another reported that they are sometimes interchangeable. Among purchasers, one firm stated that nonsubject imports of sugar are always interchangeable with the U.S. product, two stated that they are frequently interchangeable, and two stated that they are sometimes interchangeable. Another purchaser that is only familiar with sugar from Canada and Mexico stated that sugar from Canada is always interchangeable with U.S.-produced sugar, while sugar from Mexico is sometimes interchangeable with U.S.-produced sugar. None of the other purchasers made comparisons. Processor/refiners and importers were also asked whether differences in factors other than price between U.S.-produced sugar and imports from the nonsubject countries have a significant effect on sales. Four U.S. processors/refiners reported that product differences between the United States and the nonsubject countries always have a significant effect on sales, one reported that the differences are never significant, and one reported that the differences are sometimes significant. Six processors/refiners did not respond to the question. One importer stated that the differences are always significant.

In addition to questions concerning interchangeability and product differences, purchasers were asked to compare sugar from countries where they have actual marketing/pricing knowledge in 15 characteristics. While there were no comparisons between the U.S.-produced sugar and sugar from any of the subject countries, two purchasers compared sugar from the United States and Mexico, two compared sugar from the United States and Canada, and one compared sugar from the United States and from Brazil and Paraguay. In one of the comparisons between the United States and Mexico, the United States was ranked superior in extension of credit, minimum quantity requirements, packaging, product consistency, quality, product range, reliability of supply, and technical support/service. In five other characteristics, availability, delivery terms, delivery time, discounts offered, and price the United States and Mexico were ranked comparable. In the other comparison between the United States and Mexico, the United States was ranked superior in availability, extension of credit, product range, and reliability of supply. The two countries were ranked comparable in all other characteristics. In one comparison between the United States and Canada, the United States was ranked inferior in lower price, and comparable in all other characteristics. In the other comparison with Canada, the United States was ranked superior in availability, discounts offered, and lower transportation costs and comparable in all other characteristics. In the comparison between the United States and imports from Brazil and Paraguay the products were ranked comparable in all respects.

Subject vs. Nonsubject Imports

Questionnaire respondents were further asked to compare the interchangeability of imports from subject countries with imports from nonsubject countries. Two processors/refiners reported that imports from all subject countries are always interchangeable with imports from nonsubject countries and one reported that imports from the subject countries are sometimes interchangeable with imports from nonsubject countries. None of the other processors/refiners compared subject and nonsubject imports in terms of interchangeability. One importer reported that imports from all nonsubject countries are always interchangeable with imports from subject countries and one reported that they are never interchangeable. Another importer reported that imports from Belgium, France, and Germany, and the 15-member EU are sometimes interchangeable with nonsubject imports. One purchaser stated that imports from all of the subject countries can frequently be used interchangeably with imports from nonsubject countries.

When asked whether differences in factors other than price between U.S.-produced sugar and imports from the nonsubject countries have a significant effect on sales, two processors/refiners stated that the differences are always significant, one said that they are never significant, and one said that they are sometimes significant. No importers responded to this question.

ELASTICITY ESTIMATES

This section discusses elasticity estimates for sugar. Parties were encouraged to comment on these estimates as an attachment to their briefs.

U.S. Supply Elasticity[5]

The domestic supply elasticity for sugar measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of sugar. As noted earlier, this elasticity depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced sugar. The available evidence indicates that this elasticity is likely to be fairly low. An estimate in the range of 0.5 to 1 appears to be reasonable. The domestic interested parties did not directly discuss these estimates. However, in appendix 26 of their posthearing brief they included studies that made use of U.S. supply elasticities ranging from 0.11 to 1.5 for estimating the effect of imports on U.S. sugar prices.[6] The methods used in arriving at these elasticities were not discussed in the studies.

U.S. Demand Elasticity

The U.S. demand elasticity for sugar measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of sugar. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the sugar in the production of any downstream products. Despite the existence of substitutes for sugar, available information indicates that it is likely that the elasticity of demand for sugar is fairly low.[7] An estimate in the range of -0.5 to -1 is suggested. Again, the domestic interested parties did not directly discuss these estimates. However, the studies cited above that were included in their posthearing brief made use of U.S. demand elasticities ranging from -0.14 to -0.39 for estimating the effect of imports on U.S. sugar prices. The methods used in arriving at this elasticities were not described in the studies.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Since U.S.-produced and imported sugars from the subject countries are

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[5] A supply function is not defined in the case of a non-competitive market.

[6] The studies in the appendix were by Won W. Koo, Richard D. Taylor and Jeremy W. Matson " Impacts of the U.S.-Central Free Trade Agreement on the U.S. Sugar Industry," p. 9 and by Andrew Schlitz and Troy G. Schlitz "Potential Bilateral and Regional Free Trade Agreements: The Economic Viability of the Florida Sugar Industry," p. 18.

[7] Past empirical studies have indicated that this elasticity is less than -1. See for example R. Lopez and J.S.D. Sepulveda, "Changes in Demand for Sugar and Implications for Import Policy," *Northeastern Journal of Agricultural and Resource Economics*, vol. 14, 1985, pp. 177-182 and Noel D. Uri, "Estimating the U.S. Demand for Sugar in the Presence of Measurement Error in the Data" *Journal of Policy Modeling*, vol. 17(1), 1995, pp. 59-83.

virtually identical to each other, the elasticity of substitution is likely to be very high. It is likely to fall within the range of 5 to 10, or even higher. The domestic interested parties did not provide any studies that used explicit numerical estimates of this elasticity, although they regard imports as very close substitutes for U.S.-produced sugar.[8]

[8] See domestic industry's posthearing brief, p. 11.

PART III: CONDITION OF THE U.S. INDUSTRY

In the present reviews, Commission questionnaires were sent to all existing U.S. cane millers, cane refiners, and beet processors, and to a sample of 101 sugar beet and 67 sugar cane growers.[1] Questionnaire responses were received from all five U.S. cane refiners, from all eight U.S. beet processors, from all 19 U.S. cane millers,[2] and from 77 sugar beet and 42 sugar cane growers. Production, shipments, and employment data for U.S. processors and refiners are based on these questionnaire responses, as are financial data for the entire industry. Production and yield data for sugar beet and sugar cane growers are based on official USDA statistics.

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Sugar Beet and Sugar Cane Growers

Data relating to U.S. growers' production of sugar beets and sugar cane are presented in figure III-1 and table III-1. As the figure indicates, U.S. sugar beet and sugar cane production followed a similar trend over the last 15 years, with the exception of 2001, when sugar beet production declined markedly.[3] Between 1991 and 2004, U.S. production of sugar beets increased by 6 percent (from 28.2 million to 29.9 million short tons), while the production of sugar cane declined by 4 percent (from 29.0 million to 27.7 million short tons). Production of both sugar beets and sugar cane has declined (by 10 percent and 17 percent, respectively) from near-peak levels achieved in 1999, when the Commission conducted its first reviews. Sugar beets and sugar cane have been produced in roughly equal quantities over the last 15 years.

Sugar crop yields (measured as the quantity of crop harvested from an acre of farmland) have remained fairly stable over the last decade and a half. As indicated in figure III-1, sugar beet yield increased from 20.3 to 22.9 tons per acre, while cane yield decreased from 34.1 to 30.9 tons per acre over the 14-year period. According to USDA data, the total area of U.S. farmland devoted to sugar cane production increased by 20 percent between 1990 and 2004, while the area devoted to sugar beet production decreased by 6 percent over the same period.[4]

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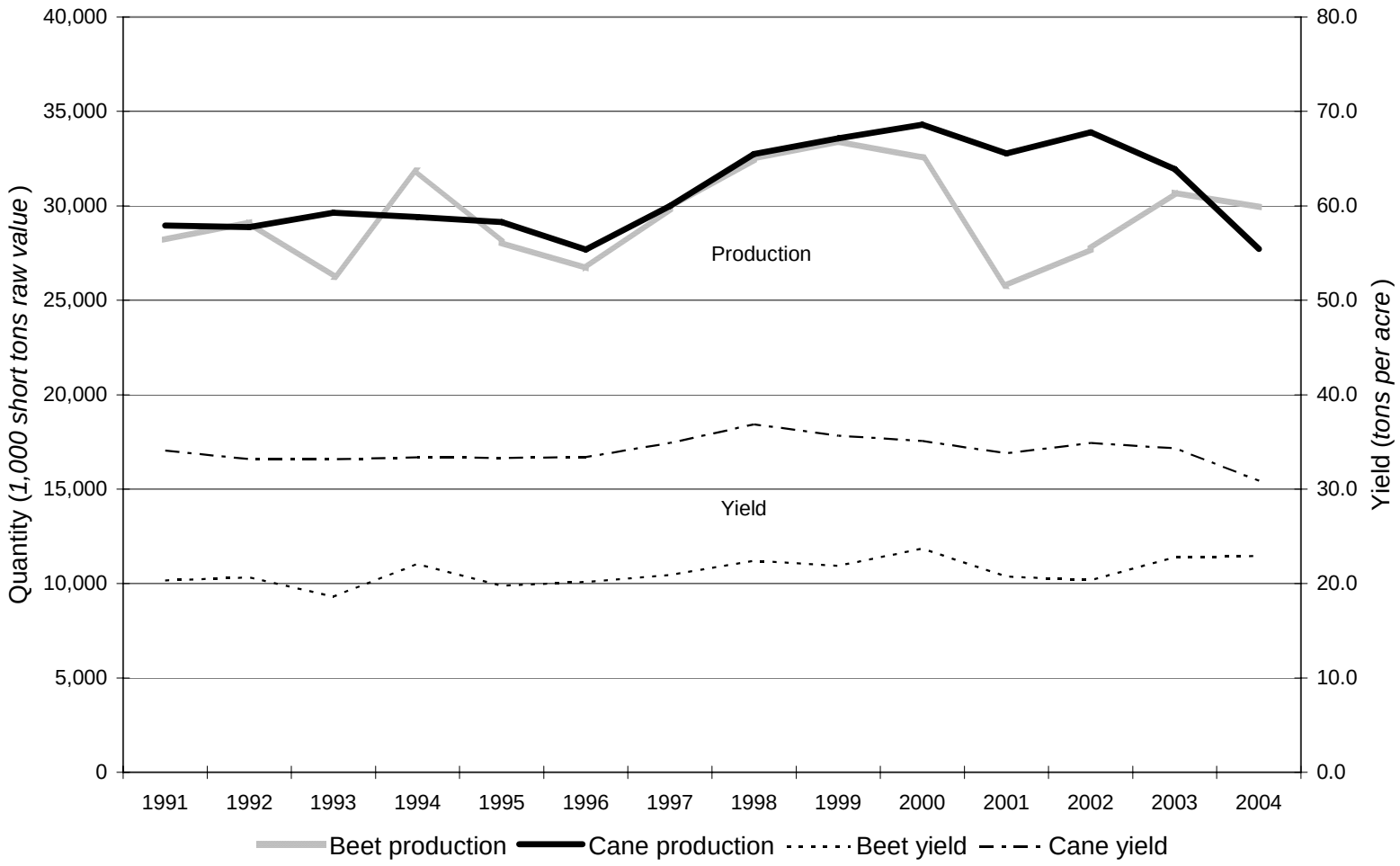
[1] A representative list of U.S. sugar beet and sugar cane growers was provided by counsel to the domestic industry. Counsel to the industry requested that cane millers and beet processors provide the names of their five largest suppliers of beet or cane for each of their production facilities. A list of these grower names was forwarded to staff. E-mail from J. Cofrancesco, counsel to the domestic industry, May 31, 2005.

[2] As noted in Part I, two millers, Iberia Sugar Coop. and Jeanerette Sugar Co., ceased producing raw cane sugar in 2005. Data for these two firms covering crop years 1999-2004 are included in the aggregate millers' financial data presented below.

[3] The decline in sugar beet production in 2001 was likely due to the effects of a substantial fall in U.S. sugar prices in 2000 (*see* Part V, table V-2). As a result of forfeitures ensuing from this price decline, the USDA implemented measures to encourage a reduction in national sugar production.

[4] Sugar beet and sugar cane data are obtained from Economic Research Service (ERS), a division of the USDA. The data cited above are derived from tables 14 and 15 of ERS' *Sugar and Sweeteners Yearbook*, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

Figure III-1
Sugar: U.S. sugar beet and sugar cane production and yield, 1991-2004



Source: Table III-1.

Table III-1
Sugar: U.S. sugar beet and sugar cane production and yield, crop years 1991-2004

Crop year	Sugar beets		Sugar cane	
	Production (*1,000 short tons*)	Yield (*tons per acre*)	Production (*1,000 short tons*)	Yield (*tons per acre*)
1991	28,203	20.3	28,960	34.1
1992	29,143	20.6	28,873	33.2
1993	26,249	18.6	29,635	33.2
1994	31,853	22.1	29,404	33.3
1995	28,065	19.8	29,137	33.3
1996	26,680	20.2	27,687	33.4
1997	29,886	20.9	30,003	34.9
1998	32,499	22.4	32,743	36.9
1999	33,420	21.9	33,577	35.7
2000	32,541	23.7	34,291	35.1
2001	25,764	20.7	32,775	33.8
2002	27,707	20.4	33,903	34.9
2003	30,710	22.8	31,942	34.3
2004	29,932	22.9	27,713	30.9

Source: Compiled from USDA *Sugar and Sweeteners Yearbook*, tables 14 and 15, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

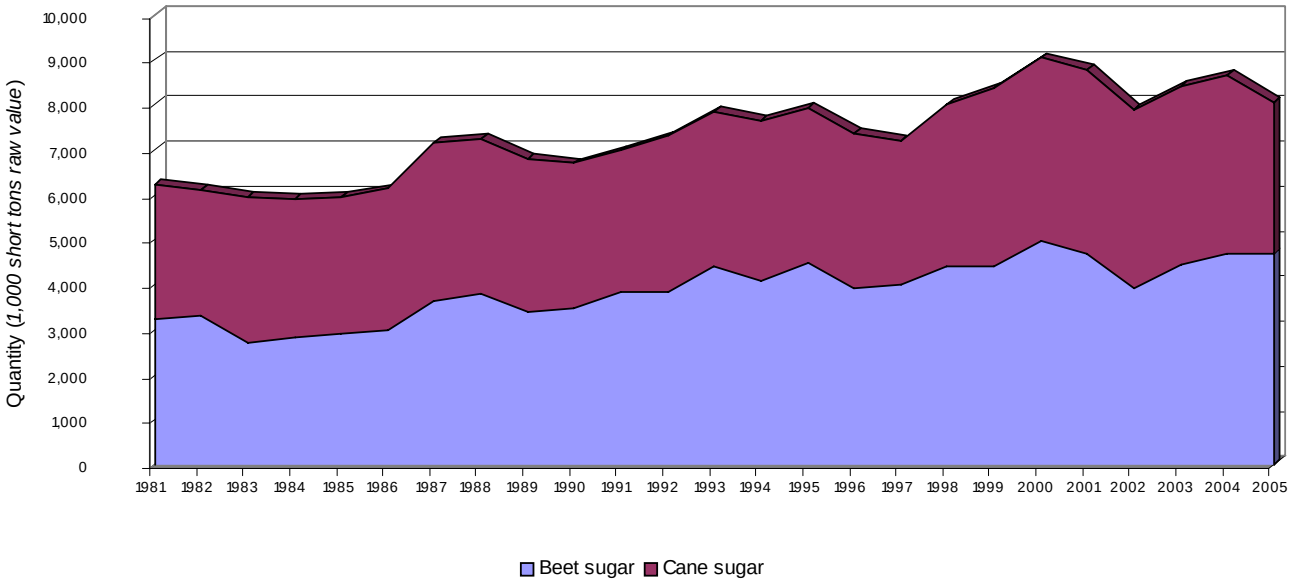
Processors and Refiners[5]

Official USDA statistics relating to U.S. sugar production, exports, and stocks are presented in Part I of this report (table I-12). An illustration of U.S. refined sugar production between 1981 and 2005, based on official USDA statistics, is presented in figure III-2, while data pertaining to this figure are presented in table III-2.

As shown in figure III-2, total U.S. refined sugar production increased by 29 percent between 1981 and 2005, from 6.2 million to 8.1 million STRV, according to USDA statistics. The proportion of U.S. refined sugar production accounted for by beet and cane sugar remained stable over this period, with each accounting for roughly half of overall sugar production, although beet sugar accounted for a slight majority of total production in most years.

[5] As noted above, trade and related data presented in this section for U.S. sugar processors are based on data submitted in response to Commission questionnaires. Questionnaire responses were received from all firms currently operating beet or cane processing facilities in the Unites States.

Figure III-2
Sugar: U.S. refined sugar production from sugar beets and sugar cane, 1981-2005



Source: Table III-2.

Production and capacity data for U.S. producers of refined beet and cane sugar ("U.S. processors"), based on data submitted in response to Commission questionnaires in these reviews, are presented in table III-3. According to these data, U.S. processors' combined refined sugar production capacity declined by 11 percent between 1999 and 2002, then increased by 5 percent in 2004.[6] Capacity was 7 percent lower in 2004 than at the beginning of the period examined. U.S. processors' production of refined sugar remained essentially stable over the period examined, increasing by 6 percent between 1999 and 2000, then decreasing by 2 percent into 2004. Production was 4 percent higher in 2004 than in 1999. U.S. processors' capacity utilization increased over the period examined, from 80 percent in 1999 to 89 percent in 2004. Capacity, production, and utilization were lower in the first quarter of 2005 than in the corresponding 2004 period.

U.S. beet sugar producers cited beet supply and quality, daily beet slicing capacity, and the ability to store beets during the processing campaign as the constraints on their refined sugar production capacity. Several beet processors noted that weather can affect beet harvest (and supply), as well as the length of time beets can be stored prior to processing.[7] Refiners of raw cane sugar cited raw sugar supply, daily raw sugar melt rates, and the ability to store, package, and distribute their final product as the constraints on their refined cane sugar production capacity. Six out of the 14 U.S. producers of

[6] Production data compiled from U.S. processors' responses to Commission questionnaires are higher in every year of the period examine than official USDA production data (presented in tables I-12 and III-2). In response to a request from Commission staff, counsel to the domestic industry contacted U.S. processors to determine the cause of the discrepancy. Four processors responded that they had ***, while three processors reported "***." Email from J. Cofrancesco, counsel to the domestic industry, July 28, 2005.

[7] One beet processor also cited states' environmental regulations that limit the amount of effluence a firm can emit into the air and water as a capacity constraint. ***'s response to the processors'/refiners' questionnaire, p. 6.

Table III-2
Sugar: U.S. sugar production, crop years 1981-2005

Crop year	Production (*1,000 STRV*)			Share (*percent*)		
	Beet sugar	Cane sugar	Total	Beet sugar	Cane sugar	Total
1981	3,234	2,987	6,221	52.0	48.0	100.0
1982	3,318	2,804	6,122	54.2	45.8	100.0
1983	2,692	3,263	5,955	45.2	54.8	100.0
1984	2,837	3,073	5,910	48.0	52.0	100.0
1985	2,915	3,025	5,940	49.1	50.9	100.0
1986	2,988	3,136	6,124	48.8	51.2	100.0
1987	3,653	3,506	7,159	51.0	49.0	100.0
1988	3,822	3,425	7,247	52.7	47.3	100.0
1989	3,396	3,408	6,804	49.9	50.1	100.0
1990	3,466	3,225	6,691	51.8	48.2	100.0
1991	3,854	3,124	6,978	55.2	44.8	100.0
1992	3,845	3,461	7,306	52.6	47.4	100.0
1993	4,392	3,446	7,838	56.0	44.0	100.0
1994	4,090	3,565	7,655	53.4	46.6	100.0
1995	4,493	3,434	7,927	56.7	43.3	100.0
1996	3,916	3,454	7,370	53.1	46.9	100.0
1997	4,013	3,191	7,204	55.7	44.3	100.0
1998	4,389	3,632	8,021	54.7	45.3	100.0
1999	4,423	3,951	8,374	52.8	47.2	100.0
2000	4,956	4,076	9,032	54.9	45.1	100.0
2001	4,680	4,089	8,769	53.4	46.6	100.0
2002	3,915	3,985	7,900	49.6	50.4	100.0
2003	4,462	3,964	8,426	53.0	47.0	100.0
2004	4,692	3,957	8,649	54.3	45.7	100.0
2005[1]	4,685	3,368	8,053	58.2	41.8	100.0

[1] Data for crop year 2005 are projected.

Note.–Due to rounding in the original data, items may not add to the totals shown.

Source: Compiled from USDA *Sugar and Sweeteners Yearbook*, table 16, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

Table III-3
Sugar: U.S. processors' capacity, production, and capacity utilization, 1999-2004, January-March 2004, and January-March 2005

Item	Crop year						Jan.-Mar.	
	1999	2000	2001	2002	2003	2004	2004	2005
Capacity (*1,000 short tons raw value*)	11,796	11,400	11,280	10,487	10,721	11,004	3,345	3,241
Production (*1,000 short tons raw value*)	9,436	10,006	9,768	9,685	9,819	9,789	2,751	2,596
Capacity utilization (*percent*)	80.0	87.8	86.6	92.3	91.6	89.0	82.2	80.1

Source: Compiled from responses to Commission questionnaires.

refined sugar reported that USDA marketing allocations created an effective cap on the quantity of sugar they are able to produce.[8]

Several U.S. producers of refined sugar reported having undertaken technology or equipment investments since 1999 to improve the efficiency of their production processes, though, as noted in Part I, the primary technology for producing sugar has essentially remained the same.

U.S. PROCESSORS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

Table III-4 presents reported data for U.S. processors' shipments of refined sugar. Processors' commercial shipments increased by 6 percent between 1999 and 2000, from 9.7 million to 10.3 million STRV, then decreased by 7 percent through 2004 to 9.6 million STRV. Processors' exports of refined sugar remained stable throughout the period examined, accounting for 2 percent of total shipments in every year. The unit values of processors' U.S. shipments exhibited some volatility over the period examined, decreasing by 11 percent between 1999 and 2001, increasing by 12 percent between 2001 and 2003, and finally decreasing again, by 2 percent, in 2004. The unit values of processors' export shipments were substantially lower than those for domestic shipments throughout the period examined.

Six firms (two beet processors and four out five cane refiners) reported exports of sugar during the period examined in these reviews. Cane refiners accounted for virtually all exports of sugar in this period, with *** (*** percent), *** (*** percent), and *** (*** percent) accounting for over 90 percent of total reported exports. Three cane refiners, ***, reported transfers of refined sugar to related firms in the period examined.[9] No firms reported any internal consumption of refined sugar within the period examined.

[8] As described in Part I, the USDA's marketing allocations limit the quantity of refined sugar an individual firm can market in the United States in any given crop year.

[9] Although *** did report shipments of sugar to related firms between 2002 and 2004, the company did not include such transfers in its financial data. Transfers to related firms accounted for less than *** percent of *** total U.S. shipments in 2004. As noted in Part I, *** is a majority owner of ***, while *** owns ***.

Table III-4
Sugar: U.S. processors' refined sugar shipments, 1999-2004, January-March 2004, and January-March 2005[1]

Item	Crop year						Jan.-Mar.	
	1999	2000	2001	2002	2003	2004	2004	2005
Quantity (*1,000 short tons raw value*)								
Commercial shipments	9,682	10,274	10,161	9,552	9,771	9,581	2,356	2,255
Transfers to related firms	2	19	13	24	18	22	9	2
U.S. shipments	9,684	10,294	10,173	9,577	9,789	9,602	2,365	2,257
Export shipments	176	181	203	189	168	231	57	57
Total shipments	9,860	10,474	10,376	9,765	9,957	9,833	2,422	2,314
Value (*$1,000*)								
Commercial shipments	4,987,565	4,897,064	4,643,818	4,797,214	5,005,087	4,793,249	1,168,688	1,095,189
Transfers to related firms	1,000	10,356	6,893	12,028	10,094	15,298	4,260	796
U.S. shipments	4,988,565	4,907,420	4,650,711	4,809,242	5,015,181	4,808,547	1,172,948	1,095,985
Export shipments	53,275	49,455	61,734	52,411	49,655	71,921	17,277	15,635
Total shipments	5,041,840	4,956,875	4,712,445	4,861,653	5,064,836	4,880,468	1,190,225	1,111,620
Unit value (*per short ton*)								
Commercial shipments	$515	$477	$457	$502	$512	$500	$496	$486
Transfers to related firms	442	534	551	495	572	702	473	531
U.S. shipments	515	477	457	502	512	501	496	486
Export shipments	303	274	305	278	295	311	302	272
Total shipments	511	473	454	498	509	496	491	480
Share of quantity (*percent*)								
Commercial shipments	98.2	98.1	97.9	97.8	98.1	97.4	97.3	97.5
Transfers to related firms	(2)	0.2	0.1	0.2	0.2	0.2	0.4	0.1
U.S. shipments	98.2	98.3	98.0	98.1	98.3	97.7	97.6	97.5
Export shipments	1.8	1.7	2.0	1.9	1.7	2.3	2.4	2.5
Total shipments	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] No firm reported shipments for internal consumption.
[2] Less than 0.5 percent.

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

U.S. PROCESSORS' INVENTORIES

U.S. beet and cane sugar processors' inventories of sugar are presented in table III-5. Inventory levels decreased relative to processors' production and shipments between 1999 and 2001, increased into 2002, and remained relatively stable thereafter. High levels of reported inventories in the January-March periods reflect the cyclical nature of the sugar industry, which results in larger stocks in the middle than at the end of the crop year.

Table III-5
Sugar: U.S. processors' inventories, and ratios to production and shipments, 1999-2004, January-March 2004, and January-March 2005

Item	Crop year						Jan.-Mar.	
	1999	2000	2001	2002	2003	2004	2004	2005
Inventories (*1,000 STRV*)	1,153	1,129	957	1,134	1,137	1,114	2,314	2,187
Ratio to production (*percent*)	12.2	11.3	9.8	11.7	11.6	11.4	21.0	21.1
Ratio to U.S. shipments (*percent*)	11.9	11.0	9.4	11.8	11.6	11.6	24.5	24.2
Ratio to total shipments (*percent*)	11.7	10.8	9.2	11.6	11.4	11.3	23.9	23.6

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

U.S. PROCESSORS' PURCHASES

Six U.S. processors reported purchases of refined sugar during the period examined in these reviews. Processing firms cited production and inventory shortages, raw input reductions resulting from adverse weather conditions, and the need to supplement product lines as reasons for such purchases. Processors' reported refined sugar purchases were all sourced domestically, either from other processors, from sugar marketing firms, or from the USDA through its PIK program. U.S. processors' purchases of refined sugar in 2004 were equivalent to *** percent of their refined sugar production in that year.

U.S. PROCESSORS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Reported data relating to U.S. sugar processors' employment, wages paid, and labor productivity are presented in table III-6. These data indicate that the number of production and related workers ("PRWs") in the refined sugar industry decreased by 21 percent between 1999 and 2004. The hourly wages and productivity of processors' PRWs increased steadily throughout the period examined, while unit labor costs decreased. Hourly wages, productivity, and unit labor costs were virtually unchanged in the first quarter of 2005, compared to the corresponding 2004 period.

Table III-6
Sugar: U.S. processors' employment-related data, 1999-2004, January-March 2004, and January-March 2005

Item	Crop year						Jan.-Mar.[1]	
	1999	2000	2001	2002	2003	2004	2004	2005
PRWs (*number*)	11,105	11,160	10,598	11,232	9,378	8,786	8,795	8,491
Hours worked (*1,000*)	23,850	24,289	22,492	21,196	19,956	18,875	4,992	4,721
Wages paid (*$1,000*)	382,993	398,997	379,933	373,217	369,392	359,732	92,547	87,379
Hourly wages	$16.06	$16.43	$16.89	$17.61	$18.51	$19.06	$18.54	$18.51
Productivity (*short tons per hour*)	0.40	0.41	0.43	0.46	0.49	0.52	0.57	0.57
Unit labor costs (*per short ton*)	$40.59	$39.88	$38.89	$38.54	$37.62	$36.75	$32.70	$32.56

[1] Productivity and labor cost data for interim periods are based only on the responses of firms who reported both production and employment data for these periods.

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

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

Fourteen processors/refiners of sugar provided useable financial data.[10] Even though two refiners (***) reported sugar transferred to related companies, they were insignificant amounts for all periods.

*** processors (***) did not report raw material costs.[11] As a result, their cost of goods sold ("COGS") are understated and their profitability is overstated. Since these *** processors combined accounted for approximately *** percent of the domestic industry's total net sales in every period, and since raw materials represent approximately 60 to 70 percent of net sales, the inclusion of these *** processors' unadjusted data understates the domestic industry's COGS and overstates its profitability (the effect is the overstatement of operating and net income margins by anywhere from 8 to 10 percent for the full year periods and 14 to 15 percent in the interim periods).

Conversely, simply excluding these two processors' data from the domestic industry data results in net sales being understated by approximately 20 percent. Staff requested these *** processors to estimate their raw material costs. However, none of these companies provided an estimate. In the absence of an estimate of raw material costs from any of these companies, these *** processors' raw material costs were estimated based upon the results of the domestic growers (*see* table III-14).

In an effort to strike a balance and present as complete a record as reasonably possible, this section of the report presents the results of the U.S. processors/refiners on their operations, including ***

[10] Three processors reported financial data for partial periods, ***, due to their entrance and exit to/from the industry.

[11] The cooperatives did not report any raw material costs because they did not pay their members for materials received, but instead distributed the net proceeds back to their members. Some cooperative processors/refiners are stock cooperatives. These stock cooperatives account for their operations in a more traditional manner since they guarantee their members a certain price for raw material input.

with an adjustment for their raw material costs. Additional tables presenting data on U.S. processors/refiners' operations including and excluding *** incomplete data, are presented in appendix E.

Operations of Sugar Processors/Refiners

The results of the responding U.S. processors/refiners' sugar operations (adjusted) are presented in table III-7. While sales quantity fluctuated between 1999 and 2001, it increased steadily from 2002 to 2004. However, net sales value as well as operating income show different patterns from sales quantity, which resulted from fluctuations of the average unit sales value and unit total cost over the period.

Between the two interim periods, sales value decreased, in spite of a slight increase in sales quantity, due to decreased unit sales values. However, operating and net income increased because the average unit total cost decreased to a somewhat greater degree than the average unit sales value.

The ratio of the domestic industry's operating income to net sales decreased between 1999 and 2001, but increased from 2001 to 2002 (from 2.7 percent to 4.4 percent), then decreased in 2003 to 4.1 percent, and increased again to 6.2 percent in 2004 and between the two interim periods (5.5 percent to 8.4 percent).

Cooperative processors/refiners are owned collectively by sugar beet/cane growers and generally account for their operations differently than non-cooperative processors/refiners. Cooperative processors/refiners generally do not pay their member sugar beet/cane growers for the raw material inputs. Instead, they process sugar beets/cane provided by the member growers into refined sugar, sell the sugar, and then distribute the net proceeds back to the member growers based upon the relative amount of raw materials originally furnished, or the number of shares/ownership. As a result, cooperatives themselves generally do not make a profit or incur a loss on the sale of the refined sugar; instead, profit or losses are borne by each member grower, depending upon whether the cash paid by the cooperative exceeds or is less than each respective member grower's costs. This accounting is in contrast to non-cooperative processors/refiners, which purchase raw materials from unrelated growers/millers.

Except for ***, all processors/refiners reported by-product revenues.[12] By-product revenues can be treated either as a cost reduction of the main or joint products, or as a separate item of revenue or other income.[13] However, by-products are traditionally accounted for by subtracting net by-product revenue from joint production costs.[14] Net income and the net income margin are the same whether by-product revenues are subtracted from COGS or are left out of COGS and treated as a part of other income.

In table III-7, by-product revenues are subtracted from COGS for each processor/refiner that reported by-product revenues.[15] Given that by-product revenues were substantial during the period data were collected (amounting $151 to $173 million in each full-year period and $45 to $52 million in the interim periods), the processors'/refiners' operating income and operating income margin without the effect of subtracting by-product revenues from COGS are also presented in table III-8.

Due to the foregoing accounting practices by cooperatives, it may be more appropriate to rely upon net income and net income margin as a percentage to net sales than the traditional focus on operating income and to rely upon the financial data for the processors/refiners that reported raw material costs. Selected cost data of the processors/refiners on their operations for the subject products are not

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[12] ***.

[13] *Cost Accounting (ninth Edition), Horngren, Foster, Datar*, Prentice Hall, 1997, p . 558.

[14] *The Managerial and Cost Accountant's Handbook, Black and Edwards*, Dow Jones-Irwin, 1979, p. 475.

[15] By-product revenues are treated as a cost reduction because some processors/refiners reported more by-product revenues from sales of molasses and pulp while they showed operating losses for certain periods.

Table III-7
Sugar: Results of operations of U.S. processors/refiners (adjusted to include estimated raw materials costs for *), fiscal years 1999-2004, January-March 2004, and January-March 2005**

Item	Fiscal year						January-March	
	1999	2000	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 short tons*)							
Net sales	9,485	9,889	9,726	9,139	9,225	9,278	2,187	2,214
	Value (*$1,000*)							
Net sales	5,036,664	4,903,692	4,573,893	4,661,534	4,933,099	4,854,185	1,148,909	1,124,873
COGS	4,267,472	4,214,262	4,031,753	4,045,618	4,282,616	4,103,791	967,430	913,189
Gross profit	769,192	689,430	542,140	615,916	650,483	750,394	181,479	211,684
SG&A expenses	468,028	419,598	418,973	412,999	445,981	448,622	118,086	117,552
Operating income[1]	301,164	269,832	123,167	202,917	204,502	301,772	63,393	94,132
Interest expense	72,253	79,894	78,311	58,331	58,876	56,788	14,373	15,327
Other expense	108,059	131,061	94,176	46,778	68,401	29,085	(8,232)	(100)
CDSOA funds received	0	0	0	0	0	0	0	0
Other income items	20,588	32,961	31,597	77,126	63,720	92,184	14,652	8,006
Net income[1]	141,440	91,838	(17,723)	174,934	140,945	308,083	71,904	86,911
Depreciation	136,083	143,904	148,838	121,933	135,612	132,560	33,163	36,235
Cash flow	277,523	235,742	131,115	296,867	276,557	440,643	105,067	123,146
	Value (*per short ton*)							
Net sales	$531	$496	$470	$510	$535	$523	$525	$508
COGS	450	426	415	443	464	442	442	412
Gross profit	81	70	56	67	71	81	83	96
SG&A expenses	49	42	43	45	48	48	54	53
Operating income[1]	32	27	13	22	22	33	29	43
	Ratio to net sales (*percent*)							
COGS	84.7	85.9	88.1	86.8	86.8	84.5	84.2	81.2
Gross profit	15.3	14.1	11.9	13.2	13.2	15.5	15.8	18.8
SG&A expenses	9.3	8.6	9.2	8.9	9.0	9.2	10.3	10.5
Operating income[1]	6.0	5.5	2.7	4.4	4.1	6.2	5.5	8.4
Net income[1]	2.8	1.9	(0.4)	3.8	2.9	6.3	6.3	7.7
	Number of firms reporting							
Operating losses	1	2	6	5	3	2	3	2
Data	12	12	12	13	13	13	13	13

[1] As noted in the text, *** did not report raw material costs. Therefore, raw material costs were estimated based on the financial experience of growers.

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

Table III-8
Sugar: Results of operations of U.S. processors/refiners with no by-product revenues reflected in COGS, fiscal years 1999-2004, January-March 2004, and January-March 2005

Item	Fiscal year						January-March	
	1999	2000	2001	2002	2003	2004	2004	2005
Operating income: value (*$1,000*)	134,031	115,474	(34,049)	52,219	53,646	128,663	18,715	42,280
Operating income: ratio to net sales (*percent*)	2.7	2.4	(0.7)	1.1	1.1	2.7	1.6	3.8

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

presented because of non-inclusion of raw material costs and inconsistent treatment among processors of cost elements in COGS.

Capital Expenditures and Research and Development Expenses (Processors/Refiners)

The U.S. processors/refiners' capital expenditures and research and development ("R&D") expenses are presented in table III-9. Capital expenditures decreased significantly between 1999 and 2002, then increased from 2002 to 2003 until they decreased slightly in 2004. R&D expenses fluctuated over the period, but remained relatively at the same level between 1999 and 2004. Both expenditures and expenses increased slightly between the two interim periods.

Table III-9
Sugar: Capital expenditures and R&D expenses by U.S. processors/refiners, fiscal years 1999-2004, January-March 2004, and January-March 2005

Item	Fiscal year						January-March	
	1999	2000	2001	2002	2003	2004	2004	2005
	Value (*$1,000*)							
Capital expenditures	172,212	141,984	87,740	74,816	109,151	104,995	18,568	18,671
R&D expenses	2,096	2,027	2,830	2,510	2,803	2,410	693	719

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

Assets and Return on Investment (Processors/Refiners)

U.S. processors/refiners were requested to provide data on their assets used in the production and sale of sugar products during the period for which data were collected to assess their return on investment ("ROI"). Although ROI can be computed in different ways, a commonly used method is income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income divided by total assets used in the production and sale of sugar products. Data on the U.S. processors/refiners' total assets and their ROI are presented in table III-10.

Total assets utilized by the U.S. processors/refiners in their operations generally decreased between 1999 and 2002 and remained at relatively the same level between 2002 and 2004. The ROI

Table III-10
Sugar: Value of assets and return on investment of U.S. processors/refiners, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Value *($1,000)*					
Current assets:						
A. Cash and equivalents	93,409	91,496	10,834	21,872	18,696	26,112
B. Trade receivables (net)	380,435	311,306	295,451	360,902	374,196	414,775
C. Inventory	1,087,899	1,002,019	874,190	907,932	959,559	965,258
D. All other current	145,954	108,615	91,573	90,058	82,959	69,826
Total current	1,707,697	1,513,436	1,272,048	1,380,764	1,435,410	1,475,971
Non-current assets:						
A. Productive facilities[1]	2,977,616	3,012,654	2,916,574	2,791,604	2,808,280	2,860,628
B. Productive facilities (net)[2]	1,929,412	1,883,774	1,722,361	1,674,963	1,573,572	1,543,792
C. Other non-current	550,112	558,448	331,975	198,659	201,328	207,509
Total non-current	2,479,524	2,442,222	2,054,336	1,873,622	1,774,900	1,751,301
Total assets	4,187,221	3,955,658	3,326,384	3,254,386	3,210,310	3,227,272
	Value *($1,000)*					
Operating income	301,164	269,832	123,167	202,917	204,502	301,772
	Ratio of operating income to total assets *(percent*)					
Return on investment	7.2	6.8	3.7	6.2	6.4	9.4

[1] Original cost of property, plant, and equipment ("PPE").
[2] Net book value of PPE (original cost less accumulated depreciation).

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

increased from a ratio of 6.4 percent in 2003 to a ratio of 9.4 percent in 2004 which is consistent with an increase in the operating income margin between those two years.

Operations of Sugar Millers

The results of the U.S. millers' sugar operations are presented in table III-11. Approximately 22.3 percent (in terms of sales value in 2004) of sugar was internally consumed (reported by ***) and no transfers to related companies were reported for any period. Since only seven out of a total of *** millers reported financial data for the two interim periods, interim financial data are not presented in this section.

With respect to financial data provided to the Commission, both non-cooperative and cooperative sugar cane mills collectively reported positive operating and net income between 1999 and 2004. While total volume increased modestly between 1999 and 2002 and decreased between 2002 and 2004, net sales value and operating income did not follow the same pattern, again due to the fluctuation of the average unit sales value and unit total cost over the period.

Table III-11
Sugar: Results of operations of U.S. millers, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 short tons*)					
Net sales	3,997	4,149	4,257	4,259	4,225	4,102
Net sales	1,531,402	1,489,262	1,596,218	1,623,082	1,621,748	1,531,668
COGS	1,282,794	1,285,399	1,355,727	1,371,129	1,427,186	1,317,711
Gross profit	248,608	203,863	240,491	251,953	194,561	213,957
SG&A expenses	150,701	139,900	156,863	165,054	179,551	175,540
Operating income	97,907	63,963	83,629	86,899	15,011	38,417
Interest expense	22,518	33,220	28,994	18,813	16,228	14,742
Other expense	13,622	16,360	19,828	11,989	12,273	9,612
CDSOA funds received	0	0	8	17	0	0
Other income items	17,654	19,963	23,902	21,758	36,425	23,338
Net income	79,421	34,346	58,716	77,872	22,935	37,401
Depreciation	47,555	50,768	52,652	51,485	53,114	55,943
Cash flow	126,976	85,114	111,368	129,357	76,049	93,344
	Value (*per short ton*)					
Net sales	$383	$359	$375	$381	$384	$373
COGS	321	310	318	322	338	321
Gross profit	62	49	56	59	46	52
SG&A expenses	38	34	37	39	43	43
Operating income	24	15	20	20	4	9
	Ratio to net sales (*percent*)					
COGS	83.8	86.3	84.9	84.5	88.0	86.0
Gross profit	16.2	13.7	15.1	15.5	12.0	14.0
SG&A expenses	9.8	9.4	9.8	10.2	11.1	11.5
Operating income	6.4	4.3	5.2	5.4	0.9	2.5
	Number of firms reporting					
Operating losses	4	4	3	4	9	5
Data	***	***	***	***	***	***

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

Operating income decreased substantially from 2002 to 2003, as did the operating income margin, which fell from 5.4 percent in 2002 to 0.9 percent in 2003. However, operating and net income as well as the operating income margin showed some improvement from 2003 to 2004, as the operating income margin rose from 0.9 percent in 2003 to 2.5 percent in 2004.

Capital Expenditures and Research and Development Expenses (Millers)

The U.S. millers' capital expenditures and R&D expenses are presented in table III-12. Capital expenditures decreased continuously from 1999 to 2001 and then increased somewhat from 2001 to 2002 and remained at relatively the same level through 2004. R&D expenses fluctuated over the period but decreased overall from $1.8 million in 1999 to $1.3 million in 2004.

Table III-12
Sugar: Capital expenditures and R&D expenses by U.S. millers, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Value (*$1,000*)					
Capital expenditures	101,728	77,898	52,540	66,391	61,198	63,808
R&D expenses	1,757	1,399	1,436	1,622	1,474	1,331
Source: Compiled from data submitted in response to Commission questionnaires.						

Assets and Return on Investment (Millers)

U.S. millers were requested to provide data on their assets used in the production and sale of sugar products during the period for which data were collected to assess their ROI. Staff calculated ROI as operating income divided by total assets used in the production and sale of sugar products. Data on the U.S. millers' total assets and their ROI are presented in table III-13.

Table III-13
Sugar: Value of assets and return on investment of U.S. millers, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Value (*$1,000*)					
Total assets	1,315,499	1,410,188	1,421,553	1,438,012	1,483,232	1,399,234
Operating income	97,907	63,963	83,629	86,899	15,011	38,417
	Ratio of operating income to total assets (*percent*)					
Return on investment	7.4	4.5	5.9	6.0	1.0	2.7
Source: Compiled from data submitted in response to Commission questionnaires.						

Total assets utilized by the U.S. millers in their operations generally increased between 1999 and 2003, and then decreased in 2004. The trend of ROI over the period was exactly the same as the trend of the operating income margin in table III-11 over the same period.

Operations of Sugar Growers

The results of the U.S. growers' sugar operations are presented in table III-14. Of 116 growers' responses received by the Commission, 99 responses provided useable data. Total sales quantities were not available because a substantial number of growers either did not provide sales quantities, or reported on a different unit basis, such as gross weight of sugar beet/cane shipped, instead of short tons raw value as requested. Furthermore, a majority of growers did not provide financial data for the two interim periods. Therefore, unit value analysis and interim financial data are not presented in this section.

Table III-14
Sugar: Results of operations of U.S. growers, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
Farm income:	Value (*$1,000*)					
Sales of sugar cane/beets	417,845	402,340	449,610	460,669	498,247	415,823
Co-op distributions	121,599	115,794	102,887	103,744	110,497	87,494
Other income related	25,740	26,759	33,943	32,332	33,635	37,920
Total revenue	565,184	544,893	586,440	596,745	642,379	541,237
Farm expenses:						
Direct costs	261,884	271,399	272,580	276,607	293,694	274,671
General farm overhead	186,958	181,102	183,801	200,323	213,304	186,394
Total expenses	448,842	452,501	456,381	476,930	506,998	461,065
Net income	116,342	92,391	130,059	119,815	135,381	80,172
Depreciation	43,781	44,663	46,128	50,296	52,404	49,087
Cash flow	160,123	137,054	176,187	170,111	187,785	129,259
	Ratio to revenue (*percent*)					
Farm expenses	79.4	83.0	77.8	79.9	78.9	85.2
Net income	20.6	17.0	22.2	20.1	21.1	14.8
	Number of firms reporting					
Net losses	12	19	19	31	20	31
Data	93	96	97	98	99	97

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

Net sales value and net income both fluctuated between 1999 and 2004. However, while net sales value and net income increased from 2002 to 2003, they decreased substantially from 2003 to 2004, as did the net income ratio to revenue, from 21.1 percent in 2003 to 14.8 percent in 2004.

Capital Expenditures and Research and Development Expenses (Growers)

The U.S. growers' capital expenditures and R&D expenses are presented in table III-15. Capital expenditures fluctuated without any pattern over the period, while R&D expenses remained relatively at the same level over the period, increasing from $1.3 million in 1999 to $1.5 million in 2004.

Table III-15
Sugar: Capital expenditures and R&D expenses by U.S. growers, fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Value (*$1,000*)					
Capital expenditures	56,135	64,662	37,065	46,541	52,381	30,089
R&D expenses	1,331	1,315	1,503	1,786	1,488	1,525

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

Assets and Return on Investment (Growers)

U.S. growers were requested to provide data on their assets used in the production and sale of sugar products during the period for which data were collected to assess their ROI. However, the majority of growers did not provide their total assets. Therefore, total assets and ROI are not presented in this section.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRY

U.S. IMPORTS

As noted in Part I of this report, U.S. imports of sugar are restricted subject to a two-tier TRQ, administered by the USTR. Table IV-1 presents the fiscal year 2005 allocation of the United States' raw sugar TRQ. Raw sugar allocations to the 40 countries listed in table IV-1 are based on those countries' shares of imports in a representative period (1975-81) when sugar imports were relatively unrestricted. Although the size of the overall in-quota quantity of the TRQ is subject to change, the share of each country's allocation of in-quota imports is not.[1] As indicated in table IV-1, the Dominican Republic is the holder of the largest allocation of in-quota U.S. imports, accounting for 17 percent of the raw sugar TRQ. It is followed by Brazil (14 percent), the Philippines (13 percent), and Australia (8 percent).

Official USDA statistics for imports of sugar into the United States are presented in table IV-2. Based on these data, the quantity of total U.S. sugar imports fluctuated over the period examined, and were 7 percent lower in 2003 (1.7 million STRV) than in 1999 (at 1.8 million STRV).[2] Sugar imported under various provisions of the U.S. sugar program accounted for 90-98 percent of total U.S. sugar imports between 1999 and 2003. Within sugar program imports, the level of TRQ imports varied during the period examined, from a low of 68 percent of total imports in 2000 to a high of 81 percent of total imports in 2001. Between 1999 and 2003, the quantity of non-sugar program imports declined by 82 percent, while imports of specialty sugars increased by over 300 percent.

Official Commerce data relating to U.S. sugar imports are presented in table IV-3.[3] As indicated in table IV-3, subject imports accounted for no more than 0.1 percent of total U.S. sugar imports in any year of the period examined in these reviews, while imports from the European Union's 10 new member states accounted for less than 0.05 percent in every year of the period. Belgium, France, and Germany together accounted for 78 percent of total EU imports in 2004, compared to 48 percent in 1999. The unit values of imports from the European Union were substantially higher than those for imports from other sources throughout the period examined.[4] In addition to Belgium, France, and Germany, imports from ten other members of the present 25-member European Union (including two new member-states) entered the United States within the period examined in these reviews.

Table IV-4 presents official Commerce statistics relating to U.S. over-quota (or tier II) imports of sugar. As indicated in this table, Mexico accounted for over half of all tier II imports between 1999 and

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[1] Under the provisions governing the TRQ, unused quotas for each quota-holding country are calculated by the USTR on June 1 of every year, and may be reallocated to other qualified quota-holding countries. In addition, quota-holding countries that are net importers of sugar are required to produce a verification of origin for their exports to the United States. USDA *Sugar and Sweeteners Outlook*, SSS-234, May 31, 2002.

[2] As noted in table IV-2, import data for 2004 are incomplete, including only entries made up to August 2, 2004 (as opposed to September 30 for preceding years).

[3] Although table IV-3 presents historical data for the present 25 members of the European Union, any imports from the Union's 10 new member states would not have been subject to the countervailing duty order on sugar from the European Union prior to their accession on May 1, 2004.

[4] The domestic industry has suggested that the "anomalous" unit values of sugar imported from the European Union indicate that these imports are comprised of specialty sugars not subject to the antidumping findings and countervailing duty order under review. Domestic industry's response to the notice of institution, October 21, 2004, p. 36. Statistical breakouts of specialty sugar were only added to the HTS on July 1, 2004 (statistical reporting numbers 1701.99.1010 and 1701.99.5010). Official Commerce statistics for these reporting numbers indicate that specialty sugars accounted for 35 percent of total sugar imports from the EU between July 1, 2004 and March 31, 2005.

Table IV-1
Sugar: Raw sugar TRQ allocations, quantity and share, by exporting country, Federal fiscal year 2005[1]

Country	Quantity (*1,000 STRV*)	Share (*percent*)	Country	Quantity (*1,000 STRV*)	Share (*percent*)
Argentina	49,914	4.1	Jamaica	12,768	1.0
Australia	96,344	7.8	Madagascar	8,001	0.6
Barbados	8,125	0.7	Malawi	11,607	0.9
Belize	12,768	1.0	Mauritius	13,929	1.1
Bolivia	9,286	0.8	Mexico	8,001	0.6
Brazil	168,313	13.7	Mozambique	15,091	1.2
Colombia	27,859	2.3	Nicaragua	24,377	2.0
Congo	8,001	0.6	Panama	33,662	2.7
Cote d'Ivoire	8,001	0.6	Papua New Guinea	8,001	0.6
Costa Rica	17,412	1.4	Paraguay	8,001	0.6
Dominican Republic	204,297	16.6	Peru	47,592	3.9
Ecuador	12,768	1.0	Philippines	156,705	12.7
El Salvador	30,180	2.5	South Africa	26,698	2.2
Fiji	10,447	0.8	St. Kitts & Nevis	8,001	0.6
Gabon	8,001	0.6	Swaziland	18,573	1.5
Guatemala	55,717	4.5	Taiwan	13,929	1.1
Guyana	13,929	1.1	Thailand	16,251	1.3
Haiti	8,001	0.6	Trinidad-Tobago	8,125	0.7
Honduras	11,607	0.9	Uruguay	8,001	0.6
India	9,286	0.8	Zimbabwe	13,929	1.1

[1] As noted in Part I, the total raw sugar TRQ for fiscal year 2005 is 1,117,195 metric tons (1,231,497 short tons). This quantity has remained constant since fiscal year 2001. The raw sugar TRQ for fiscal years 1999 and 2000 were 1,164,937 metric tons (1,284,123 short tons) and 1,135,000 metric tons (1,251,123 short tons), respectively.

Note.–TRQ allocations are published in metric tons. The data presented above represent a conversion from metric to short tons using the following conversion factor: 1 metric ton = 1.10231125 short tons.

Source: Compiled from*2004-2005 Allocations of the Tariff-rate Quotas for Raw Cane Sugar, Refined Sugar, and Sugar-Containing Products*, 69 FR 46200, August 2, 2004.

Table IV-2
Sugar: U.S. imports, by type, Federal fiscal years 1999-2004

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	Quantity (*1,000 short tons raw value*)					
In-quota imports:[1]						
Raw cane sugar	1,227	1,053	1,212	1,183	1,143	937
Refined sugar:						
Mexico	29	31	112	147	0	0
Canada	11	11	10	10	10	10
Specialty sugar[2]	5	16	19	15	21	18
Other refined[2]	8	8	8	8	0	8
Subtotal	54	65	150	180	38	36
TRQ imports subtotal[3]	1,254	1,091	1,362	1,363	1,182	974
Other program imports[4]	386	388	238	296	488	464
Non-program imports[5]	181	124	76	81	32	60
Total imports	1,821	1,603	1,676	1,740	1,702	1,498
	Share of total U.S. imports (*percent*)					
In-quota imports:[1]						
Raw cane sugar	67.4	65.7	72.3	68.0	67.2	62.6
Refined sugar:						
Mexico	1.6	1.9	6.7	8.4	0.0	0.0
Canada	0.6	0.7	0.6	0.6	0.6	0.7
Specialty sugar[2]	0.3	1.0	1.1	0.9	1.2	1.2
Other refined[2]	0.4	0.5	0.5	0.5	0.0	0.5
Subtotal	3.0	4.1	8.9	10.3	2.2	2.4
TRQ imports subtotal[3]	68.9	68.1	81.3	78.3	69.4	65.0
Other program imports[4]	21.2	24.2	14.2	17.0	28.7	31.0
Non-program imports[5]	9.9	7.7	4.5	4.7	1.9	4.0
Total imports	100.0	100.0	100.0	100.0	100.0	100.0

[1] Imports entered through September 30 of each fiscal year. In-quota data for fiscal year 2004 only include imports entered through August 2, 2004.
[2] As noted in Part I, "other" and specialty refined sugars are imported under the TRQ on a first-come, first-served basis.
[3] TRQ subtotals for 1999 and 2000 were each reduced by 25,000 short tons due to double counting of imports from Mexico.
[4] Include sugar imported under the re-export and polyhydric alcohol programs. Other programs import data for FY 2004 are USDA estimates.
[5] Non-program import data for fiscal year 2004 are based on USDA estimates.

Note.–Due to rounding in the original data, items may not add to the totals shown.

Source: Complied from USDA *Sugar and Sweetener Yearbook* tables 23 and 24, retrieved at *www.ers.usda.gov/Briefing/Sugar/Data/data.htm*.

Table IV-3
Sugar: U.S. imports, by source, crop years 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
				Quantity (*short tons*)		
Belgium	102	461	504	113	127	188
France	20	32	64	198	162	481
Germany	23	9	17	9	12	32
Other EU-15	158	257	186	178	51	161
Subtotal (EU-15)	303	758	772	498	353	862
EU-NMS	(1)	1	55	13	24	41
Subtotal (EU-25)	303	759	827	510	377	903
All other sources	1,827,586	1,494,500	1,499,602	1,422,945	1,597,986	1,657,967
Total imports	1,827,889	1,495,259	1,500,429	1,423,455	1,598,363	1,658,870
				Value[2] (*$1,000*)		
Belgium	157	401	434	180	257	321
France	53	75	143	285	309	1,058
Germany	23	11	22	10	18	53
Other EU-15	218	299	225	179	72	230
Subtotal (EU-15)	450	786	824	654	656	1,663
EU-NMS	14	22	43	14	18	38
Subtotal (EU-25)	464	807	867	668	674	1,701
All other sources	627,752	523,288	563,743	554,511	620,691	591,342
Total imports	628,216	524,096	564,610	555,180	621,365	593,042
				Unit value (*per short ton*)		
Belgium	$1,534	$869	$861	$1,601	$2,016	$1,710
France	2,645	2,364	2,224	1,437	1,902	2,200
Germany	992	1,221	1,277	1,120	1,506	1,673
Other EU-15	1,378	1,166	1,210	1,008	1,408	1,429
Subtotal (EU-15)	1,485	1,036	1,068	1,315	1,858	1,930
EU-NMS	40,998	35,173	783	1,068	745	926
Subtotal (EU-25)	1,529	1,064	1,049	1,309	1,788	1,884
All other sources	343	350	376	390	388	357
Total imports	344	351	376	390	389	357

Table continued on next page.

Table IV-3--*Continued*
Sugar: U.S. imports, by source, crop years 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
	Share of quantity (*percent*)					
Belgium	(3)	(3)	(3)	(3)	(3)	(3)
France	(3)	(3)	(3)	(3)	(3)	(3)
Germany	(3)	(3)	(3)	(3)	(3)	(3)
Other EU-15	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-15)	(3)	0.1	0.1	(3)	(3)	0.1
EU-NMS	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-25)	(3)	0.1	0.1	(3)	(3)	0.1
All other sources	100.0	99.9	99.9	100.0	100.0	99.9
Total imports	100.0	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)					
Belgium	(3)	0.1	0.1	(3)	(3)	0.1
France	(3)	(3)	(3)	0.1	(3)	0.2
Germany	(3)	(3)	(3)	(3)	(3)	(3)
Other EU-15	(3)	0.1	(3)	(3)	(3)	(3)
Subtotal (EU-15)	0.1	0.1	0.1	0.1	0.1	0.3
EU-NMS	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-25)	0.1	0.2	0.2	0.1	0.1	0.3
All other sources	99.9	99.8	99.8	99.9	99.9	99.7
Total imports	100.0	100.0	100.0	100.0	100.0	100.0
	Ratio of imports to U.S. production (*percent*)					
Belgium	(3)	(3)	(3)	(3)	(3)	(3)
France	(3)	(3)	(3)	(3)	(3)	(3)
Germany	(3)	(3)	(3)	(3)	(3)	(3)
Other EU-15	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-15)	(3)	(3)	(3)	(3)	(3)	(3)
EU-NMS	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-25)	(3)	(3)	(3)	(3)	(3)	(3)
All other sources	26.1	18.2	18.7	15.0	16.3	17.0
Total imports	26.1	18.2	18.7	15.0	16.3	17.0

[1] Less than 0.5 short tons.
[2] Landed, duty-paid
[3] Less than 0.05 percent.

Source: Compiled from official Commerce statistics and data submitted in response to Commission processors' questionnaires.

Table IV-4
Sugar: U.S. over-quota (tier II) imports, by source, crop years 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
	Quantity (*short tons*)					
Belgium	73	342	255	101	119	185
France	20	32	64	198	162	426
Germany	15	9	17	9	12	15
Other EU-15	121	206	136	106	30	156
Subtotal (EU-15)	228	588	473	415	324	783
EU-NMS	(1)	1	36	13	24	26
Subtotal (EU-25)	228	589	509	428	348	809
All other sources: Mexico	64,881	6,478	4,824	40,281	8,131	8,414
Brazil	599	96	79	1,196	1,336	2,996
China	881	660	227	400	165	949
Colombia	(1)	45	10	490	589	3,490
All other	894	3,537	1,850	893	723	1,270
Total imports	67,483	11,406	7,499	43,688	11,291	17,928
	Value[2] (*$1,000*)					
Belgium	106	302	287	167	245	317
France	53	75	143	285	309	981
Germany	14	11	22	10	18	42
Other EU-15	157	239	184	142	43	224
Subtotal (EU-15)	329	627	636	605	615	1,564
EU-NMS	14	22	39	14	18	19
Subtotal (EU-25)	343	648	675	618	633	1,583
All other sources: Mexico	15,487	3,128	2,210	18,120	3,159	3,894
Brazil	214	82	96	742	744	2,039
China	718	462	234	426	156	872
Colombia	(3)	55	17	252	323	721
All other	1,069	2,536	1,777	1,162	952	1,421
Total imports	17,831	6,911	5,008	21,320	5,966	10,531

Table continued on next page.

Table IV-4--*Continued*
Sugar: U.S. over-quota (tier II) imports, by source, crop years 1999-2004

Item	Crop year					
	1999	2000	2001	2002	2003	2004
	Unit value (*per ton*)					
Belgium	$1,458	$883	$1,127	$1,652	$2,054	$1,711
France	2,645	2,364	2,224	1,437	1,902	2,303
Germany	938	1,221	1,277	1,120	1,506	2,849
Other EU-15	1,299	1,161	1,348	1,336	1,430	1,431
Subtotal (EU-15)	1,444	1,065	1,345	1,457	1,899	1,999
EU-NMS	40,998	35,173	1,080	1,068	745	705
Subtotal (EU-25)	1,503	1,101	1,326	1,445	1,820	1,956
All other sources: Mexico	239	483	458	450	388	463
Brazil	358	850	1,218	621	557	680
China	815	700	1,027	1,065	948	919
Colombia	(4)	1,206	1,720	514	549	207
All other	1,195	717	960	1,301	1,315	1,119
Total imports	264	606	668	488	528	587
	Share of quantity (*percent*)					
Belgium	0.1	3.0	3.4	0.2	1.1	1.0
France	(5)	0.3	0.9	0.5	1.4	2.4
Germany	(5)	0.1	0.2	(5)	0.1	0.1
Other EU-15	0.2	1.8	1.8	0.2	0.3	0.9
Subtotal (EU-15)	0.3	5.2	6.3	0.9	2.9	4.4
EU-NMS	(5)	(5)	0.5	(5)	0.2	0.1
Subtotal (EU-25)	0.3	5.2	6.8	1.0	3.1	4.5
All other sources: Mexico	96.1	56.8	64.3	92.2	72.0	46.9
Brazil	0.9	0.8	1.0	2.7	11.8	16.7
China	1.3	5.8	3.0	0.9	1.5	5.3
Colombia	(4)	0.4	0.1	1.1	5.2	19.5
All other	1.3	31.0	24.7	2.0	6.4	7.1
Total imports	100.0	100.0	100.0	100.0	100.0	100.0

[1] Less than 0.5 short tons.
[2] Landed, duty-paid.
[3] Less than $500.
[4] Not applicable.
[5] Less than 0.05 percent.

Note.–Due to rounding, items may not add to the totals shown.

Source: Compiled from official Commerce statistics; over-quota sugar imports are covered by HTS subheadings 1701.11.50, 1701.12.50, 1701.91.30, 1701.99.50, 1702.90.20, and 2106.90.46.

2003, and accounted for over 90 percent of total over-quota imports in 1999 and 2002. In 2004, sugar from Mexico accounted for 46.9 percent of total tier II sugar imports, followed by imports from Colombia (19.5 percent), Brazil (16.7 percent), and China (5.3 percent). France was the fifth largest source for U.S. tier II sugar imports in 2004, accounting for 2.4 percent of total over-quota imports. Imports from the 25 current European Union member-states together accounted for 4.5 percent of total tier II U.S. sugar imports in 2004.

CUMULATION CONSIDERATIONS

In assessing whether imports will likely compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility and channels of distribution[5] are addressed in Parts I and II of this report. Presence of imports in the U.S. market is addressed below.

As noted above, imports of sugar from the European Union's current 25 member-states totaled less than 1,000 short tons in each year of the period examined in these reviews. Official Commerce statistics indicate that, between 1999 and 2004, EU sugar imports entered the United States in 19 different customs districts throughout the country.[6] These data indicate that New York, NY was the largest port of entry for EU sugar imports (accounting for 42 percent of EU imports, by volume), followed by Los Angeles, CA (27 percent) and Baltimore, MD (7 percent). As noted in Part II, domestically produced sugar is marketed throughout the United States.

Official Commerce statistics also indicate that imports from the European Union's 25 present member-states occurred in every quarter between 1999 and 2004. Sugar imports from Belgium and France occurred in 23 of the 24 quarters in this period, while imports from Germany occurred in nine of the 24 quarters.

THE INDUSTRY IN THE EUROPEAN UNION

The European Union Sugar Program[7]

The EU sugar industry operates under a system known as the common market organization ("CMO"), which was established in 1968 and has remained largely unchanged since. Currently, Council Regulation (EC) No. 1260/2001 governs the CMO. This regulation began on July 1, 2001 and its main provisions will remain effective until June 30, 2006.

The policy administering the current EU sugar regime consists of three basic tools: internal support prices, import restrictions, and export subsidies. It includes price arrangements, production

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[5] As noted in Part I, U.S. refiners of raw cane sugar accounted for virtually all reported imports of sugar between 1999 and 2004. These refiners did not provide separate distribution data for imported sugar; imported raw sugar is mixed with domestic raw sugar during processing, and the resulting refined sugar is distributed through the same channels.

[6] According to Commerce statistics, over the period examined, sugar from the European Union entered the United States though Customs districts in California, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New York, Ohio, Pennsylvania, Puerto Rico, Texas, and Washington state, though in many instances the quantity imported was minimal. Sugar from Belgium entered the United States in 15 of these districts; sugar from France entered in 10 districts; and sugar from Germany entered in four districts.

[7] The description of the EU sugar program in this section is based on information published by the European Commission in its *EU sugar sector: facts and figures* report, retrieved at *http://europa.eu.int/comm/agriculture/markets/sugar/index_en.htm.*

quotas, arrangements for trade with third countries, and self financing measures. The market is managed by an intervention price, which is used as a safety net to ensure a minimum price for sugar. There is also a minimum price at which sugar manufacturers must purchase beets from growers. These prices are presented in table IV-5, and have not changed since 1994.[8] Import duties and the restriction of EU production through quotas are two additional market management tools made available by the CMO, and serve to maintain prices above the level of intervention.[9]

Table IV-5
Sugar: EU sugar program internal prices

Item	Price (*per short ton*)
Raw sugar intervention price	$573.92
Refined sugar intervention price:[1]	692.49
Finland, Ireland, Portugal, U.K.	708.49
Spain	711.01
Greece, Italy	718.14
Minimum A-quota sugar beet price	51.20
Minimum B-quota sugar beet price	35.53

[1] The European Commission sets "derived" refined sugar intervention prices for "deficit areas" within the European Union. Intervention prices for these countries, identified above, are adjusted to account for the costs of transporting sugar from sugar surplus areas.

Note.–Prices in this table have been converted from euros per metric ton using a conversion factor of 1 metric ton = 1.1023 short tons, and the July 14, 2005 euro-dollar exchange rate of €1.00 = $1.208.

Source: Compiled from the European Commission's "Description of the Common Organisation of the Market in Sugar," September 2004, Annex IV, retrieved at *http://europa.eu.int/comm/agriculture/markets/sugar/reports/descri_en.pdf*.

Production is managed by a quota system. There is "A" and "B" quota sugar. Both quota amounts have a set guaranteed minimum price and production level. Originally, when the CMO was established, A-quota sugar was the guaranteed share of the market that each member state was allowed, while B-quota sugar was intended to be the margin allowed if production exceeded the A-quota quantity due to favorable growing and market conditions.[10] Over time, the distinction between A- and B-quota sugar has largely diminished.

According to the European Commission, the intention of the quota system is: (1) to limit the total amount of sugar in the EU market, (2) to limit potential intervention purchase costs, and (3) to ensure a certain share of the EU sugar market for each member state. Under the current sugar regime, the total

[8] "Derived" intervention prices for the European Union's sugar "deficit areas" are adjusted annually based on estimates of intra-Union transportation costs (*see* table IV-5, below).

[9] Between 1979 and 2004, sugar was offered to the European Union's intervention agencies only once: 15,000 metric tons (16,535 short tons) in 1986. In April 2005, for the first time in nearly 20 years, 247,000 metric tons (272,270 short tons) was sold into intervention. USDA *Sugar and Sweetener Outlook* No. SSS-243, May 31, 2005, p. 31.

[10] European Commission's *Description of the Common Organisation of the Market in Sugar*, September 2004, pp. 9-10, retrieved at *www.europa.eu.int/comm/agriculture/markets/sugar/index_en.htm*.

quota amount for all 25 EU member-countries is 17.4 million metric tons (19.2 million short tons). Eighty-two percent of this amount is designated as A-quota, with 18 percent designated as B-quota. Subject countries' shares of the European Union's total sugar quota are presented in table IV-6. Collectively, Belgium, France (including its overseas territories), and Germany currently account for 46 percent of the European Union's total sugar production quota.

Table IV-6
Sugar: EU sugar program production quotas

Territory	A-quota	B-quota	Total quota
		Quantity (*short tons white sugar*)	
Belgium/Luxembourg[1]	743,956	159,732	903,688
France[2]	2,795,999	829,224	3,625,223
Germany	2,880,244	886,239	3,766,482
Other EU-15	6,690,938	977,498	7,668,436
Total EU-15	13,111,137	2,852,693	15,963,829
EU-NMS	3,118,428	142,641	3,261,069
Total EU-25	16,229,564	2,995,334	19,224,897
		Share (*percent*)	
Belgium/Luxembourg[1]	4.6	5.3	4.7
France[2]	17.2	27.7	18.9
Germany	17.7	29.6	19.6
Other EU-15	41.2	32.6	39.9
Total EU-15	80.8	95.2	83.0
EU-NMS	19.2	4.8	17.0
Total EU-25	100.0	100.0	100.0

[1] Belgium and Luxembourg are allocated shared production quotas under the European Union's sugar program.
[2] France's quota amount does not include quotas allotted to its overseas departments. These quotas amount to an additional 478,262 short tons of A sugar and 51,117 short tons of B sugar.

Note.–Data presented above have been converted from metric to short tons using the following conversion factor: 1 metric ton = 1.10231125 short tons.

Source: Compiled from the European Commission's *Description of the Common Organisation of the Market in Sugar*, September 2004, retrieved at *http://europa.eu.int/comm/agriculture/markets/sugar/index_en.htm*.

A- and B- quota sugar is designated for domestic consumption only, although producers are free to export sugar produced in quota. Producers who choose to export in-quota sugar are eligible for restitution payments to compensate for the difference between the EU internal support price and the world

price.[11] Any sugar produced above the quota amounts can be carried over to the following marketing year[12] where it is treated as A-quota sugar. If sugar produced outside the quota is not carried over, it must be exported without refund. This exported sugar is called "C" sugar. The CMO does not provide production support for C sugar, and it cannot be marketed within the EU. A breakout of EU in- and over-quota sugar production for 1999-2004, as provided by the European Commission, is presented in table IV-7.

Table IV-7
Sugar: EU in- and over-quota sugar production, 1999-2004[1]

Item	1999	2000	2001	2002	2003	2004[2]
	Quantity (*1,000 short tons raw value*)					
In-quota:						
A-quota	12,964	12,593	12,894	12,174	12,310	15,558
B-quota	2,793	2,714	2,700	2,586	2,455	2,610
Total quota	15,757	15,307	15,593	14,760	14,764	18,168
Over-quota:						
C-sugar	3,731	4,163	1,455	3,598	2,251	2,154
Total	19,489	19,470	17,048	18,358	17,015	20,320
	Share of total production (*percent*)					
C-sugar	19.1	21.4	8.5	19.6	13.2	10.6

[1] Data for 1999-2003 include the EU-15; data for 2004 include the EU-25.
[2] Data for 2004 are estimated.

Note.–Due to rounding in the original data source, items may not add to the totals shown.

Source: Compiled from the European Commission's "Description of the Common Organisation of the Market in Sugar," September 2004, Annex IV, retrieved at *http://europa.eu.int/comm/agriculture/markets/sugar/reports/descri_en.pdf*.

The EU exports both subsidized and unsubsidized sugar to third countries. However, subject to the European Union's Uruguay Round GATT commitments, exports of subsidized sugar to third countries are limited to 1,274,000 metric tons (1,404,000 short tons) in volume and €499 million ($603 million) in value.[13]

On July 21, 2003, Australia, Brazil, and Thailand requested the establishment of a WTO Dispute Settlement Body ("DSB") panel to examine aspects of the European Union's sugar program, specifically

[11] As noted in Part I, in its original countervailing duty investigation, Treasury concluded that the European Union's export restitution payments constituted a countervailable subsidy within the meaning of section 303 of the Tariff Act of 1930.

[12] The EU's sugar marketing year is July 1 to June 30.

[13] USDA, Foreign Agriculture Service ("FAS"), Global Agriculture Information Network ("GAIN") Report No. E23056, p. 20. Euro-dollar conversion is based on the July 14, 2005 exchange rate.

its C sugar provisions, and its treatment of ACP/India re-exports.[14] A DSB panel was established on August 29, 2003, and in September 2004, the panel issued its report, determining that C sugar is cross subsidized from A- and B-quota sugar, and thus receives a form of export subsidy. Regarding ACP/India re-exports, the panel found that the 1.6 million metric tons (1.8 million short tons) of ACP sugar the EU imports annually (and a corresponding amount exported with subsidies) ought to be counted against its export subsidy commitments. In January 2005, the European Union appealed the panel's ruling, and on April 28, 2005, the WTO Appellate Body upheld the panel's findings.[15]

On June 22, 2005, the European Commission published its proposal for reform of the EU sugar regime.[16] The major provisions of the proposal include:

- A 39-percent reduction in the institutional support price for EU sugar, over two years beginning in 2006/07, with the abolition of intervention and the introduction of a "reference price."[17]

- Compensation to farmers at 60 percent of the price reduction, in the form of a direct payment linked to respect of environmental and land management standards, rather than to production.

- Merging of the A and B quotas into a single production quota, and abolition of C sugar provisions.

- Introduction of a private sugar storage scheme to act as a price safety net.

Although the reform proposal does not call for a reduction in the EU's overall production quota, it establishes a four-year voluntary restructuring scheme for EU sugar factories, offering payments in return for factory closure and renunciation of quota allocations. Similar payments would be made available to beet sugar growers.

The Council of European Agriculture Ministers will begin to review and debate the sugar reform proposal at its July 2005 meeting (the Council meets every month). The European Commission aims for the Council of Ministers to agree on the proposed reforms at its November 2005 meeting, and for the

[14] ACP/India relates to a preferential sugar import program that the European Union has established with certain African, Caribbean, and Pacific ("ACP") nations, as well as with India. The program allows for the duty-free imports of a certain quantity of raw sugar into the European Union from these countries. The total import quota under this program is 1,294,700 metric tons, white sugar equivalent (1,427,162 short tons) for cane sugar originating from the ACP countries, and 10,000 metric tons (11,023 short tons) for cane sugar from India. The agreement, which was signed in June 2000 in Cotonou, Benin, is known as the ACP-EU Partnership Agreement.

[15] According to a European Commission representative, the European Union will have to agree with complainant countries upon a manner of implementing the WTO panel's recommendations by June 2006. Telephone interview with J.M. Trarieux, Agricultural Attache, European Commission Delegation to the U.S., June 29, 2005.

[16] "Proposal for a Council Regulation on the common organisation of the markets in the sugar sector," COM(2005) 263 final, June 22, 2005, retrieved at *http://europa.eu.int/comm/agriculture/capreform/sugar/prop_en.pdf*.

[17] According to the European Commission's proposal, the reference price will serve in the establishment of the minimum price for sugar beet growers, the trigger level for private storage, the level of border protection, and the guaranteed price to countries exporting sugar to the European Union under its preferential import mechanism. Ibid., p. 3.

proposal to be implemented in the 2006/07 marketing year.[18] Agreement on the proposal would require the backing of a qualified majority of member states.[19] As noted above, the European Union's current sugar program is only authorized until 2006. The proposed sugar reforms would be effective until 2014/15, with no review clause.

Subject Producers' Capacity, Production, and Shipments

Commission foreign producer/exporter questionnaires were sent to 56 EU sugar processing companies identified in public industry sources,[20] with at least one questionnaire sent to each of the European Union's sugar-producing member-states.[21] Only four responses were received, each certifying that the responding firm either had not produced sugar, or had not exported sugar to the United States, since 1999. Information presented below regarding the European Union's sugar industry is based on public sources.

Table IV-8 presents information relating to the EU's production of sugar beets, which provide for the vast majority of refined sugar produced in the EU (as opposed to sugar cane).[22] As indicated in table IV-8, the European Union's expansion in 2004 resulted in a 30-percent increase in the area of farmland devoted to the production of sugar beets, and an overall increase in sugar beet production of 21 percent. Sugar beets produced in the European Union's ten new member-states are used entirely in the production of sugar (whereas 22 percent of sugar beets harvested in the pre-expansion EU-15 are used in the production of alcohol). Publicly available information published by the European Commission suggests that there are over 230,000 farms currently growing sugar beets in the EU.[23]

Information relating to the number of sugar processing firms and factories in the European Union is presented in table IV-9.[24] According to these data, the number of sugar processing firms and factories in the EU-15 decreased between 1999 and 2004, with Germany accounting for a large portion of the

[18] European Commission press release No. IP/05/776, "Sugar Reform will offer EU producers long-term competitive future," June 22, 2005.

[19] On most issues, the European Council makes decisions by voting. Each EU member-state casts a number of votes in proportion to the size of its population. In order for a proposal to be adopted by the Council, there must be a "qualified majority" in favor, or 232 out of a total of 321 votes. A majority of member-states, accounting for at least 62 percent of the total EU population, must also be in favor.

[20] The names and addresses of EU sugar producers were obtained from the *F.O. Licht's World Sugar and Sweetener Yearbook 2003*, published by Agra Europe (London). A list of EU producers from this journal was also included in the domestic industry's response to the notice of institution, October 21, 2004, at exh. 20.

[21] Sugar is produced in 21 of the European Union's 25 current member-states. Only Cyprus, Estonia, Luxembourg, and Malta do not currently have sugar producing industries.

[22] Refineries in five EU member-states (including France) produce refined sugar from raw cane sugar imported under the European Union's preferential import mechanism. European Commission's *Description of the Common Organisation of the Market in Sugar*, September 2004, p. 19.

[23] European Commission *EU sugar sector: facts and figures* report, retrieved at *http://europa.eu.int/*. This number includes only farms in the EU's pre-expansion 15 members. The number of farms currently growing sugar beets in the EU is, therefore, likely to be higher than the figure cited above.

[24] The information in table IV-9 does not include the European Union's 10 new member-states; the number of firms and factories currently operating in the EU is therefore likely to be greater than the numbers presented in the table.

Table IV-8
Sugar: EU sugar beet production and use, by country group, marketing year 2004/05

Item	EU-15	NMS-10	EU-25
Area planted (*1,000 hectares*)	1,668	497	2,165
Area harvested (*1,000 hectares*)	1,668	497	2,165
Production (*1,000 short tons*)	112,235	23,903	136,138
Utilization for sugar (*1,000 short tons*)	107,969	23,903	131,872
Utilization for alcohol (*1,000 short tons*)	4,265	0	4,265
Total utilization (*1,000 short tons*)	112,235	23,903	136,138

Note.–Data presented above have been converted from metric to short tons using the following conversion factor: 1 metric ton = 1.10231125 short tons.

Source: Compiled from data contained in USDA, Foreign Agriculture Service (FAS), Global Agriculture Information Network (GAIN) Report No. E35080.

decrease. The number of firms processing sugar in Germany declined by half in this period, from 12 to 6, while the number of French processing firms was reduced by one (from 17 to 16). The number of beet sugar processing firms in Belgium remained constant at five.

Sugar production statistics for the European Union are presented in table IV-10. As indicated in this table, the quantity of sugar production in the pre-accession EU-15 fluctuated between 1999/2000 and 2004/05, and was 8 percent lower at the end of this period that at the beginning.[25] With the addition of 10 new member states, the European Union's total production level in 2004/05 was 11 percent higher than in 1999/2000. The Union's new member states accounted for 17 percent of overall EU production of refined sugar in 2004/05. USDA projections suggest that total EU sugar output will decrease by 5 percent in the 2005/06 marketing year. France is the largest EU sugar producer, accounting for 22.7 percent of total EU sugar production in 2004/05. It is followed by Germany (20.7 percent), Poland (9.3 percent), the United Kingdom (7.0 percent), and Italy (5.8 percent).

Information relating to the balance sheet of EU sugar production and use is presented in table IV-11. As shown, consumption of refined sugar in the European Union's 15 pre-expansion member states remained stable between marketing years 1999/2000 and 2003/04, at around 16 million STRV. With the addition of ten new members in 2004, consumption in the EU is estimated to have increased by 23 percent to 19.5 million STRV. Despite the increase in production and capacity resulting from enlargement, exports of sugar from the European Union are projected to decline between 2004/05 and 2005/06. In the most recent full marketing year for which official data are available (2003/04), sugar exports from the European Union amounted to 5.2 million STRV.

As indicated in table IV-11, official USDA statistics project a 64-percent increase in EU sugar stocks in the 2004/05 marketing year. As noted above, the European Commission was forced to make intervention purchases from EU sugar producers for the first time in 19 years in April 2005. According to the USDA, current oversupply in the European Union is partially due to lower than anticipated

[25] The European Commission attributes the ability of EU producers to maintain sugar production levels despite reductions in the numbers of beet growers and processing firms to improved productivity in beet production and processing. European Commission *EU Sugar Sector: Facts and Figures*, p. 4, retrieved at *http://europa.eu.int/*.

Table IV-9
Sugar: Number of EU sugar processing firms and factories, marketing years 1999/2000-2003/04

Item	Marketing year				
	1999/2000	2000/01	2001/02	2002/03	2003/04
Number of sugar processing companies:					
Belgium	5	5	5	5	5
France	17	16	16	17	16
Germany	12	11	11	7	6
Other EU-15	26	26	26	26	26
Total EU-15	60	58	58	55	53
EU-NMS	(1)	(1)	(1)	(1)	(1)
Total EU-25	(1)	(1)	(1)	(1)	(1)
Number of sugar processing factories:					
Belgium	8	8	8	8	8
France	37	35	34	34	32
Germany	32	31	30	28	27
Other EU-15	71	69	63	62	59
Total EU-15	148	143	135	132	126
EU-NMS	(1)	(1)	(1)	(1)	(1)
Total EU-25	(1)	(1)	(1)	(1)	(1)

[1] Not available.

Source: Compiled from data in CEFS, *Sustainable Development, Economy: Statistics, Structural Data*, tables entitled, "Number of Sugar and Refinery Companies by Production Year," and "Number of Factories Operating in Each Production Year," retrieved at *www.cefs.org*.

consumption in the Union's ten new member states.[26] The USDA suggests that the European Commission will likely announce cuts in the EU sugar production quota for the 2005/06 marketing year "in order to bring quotas and exports in line with WTO limits."[27] The domestic industry in these reviews has argued that current oversupply in the EU sugar market makes it probable that EU sugar will be directed towards the United States in the foreseeable future.[28]

[26] Ibid. According to the USDA's report, producers in the new member states apparently stored sugar prior to EU accession in anticipation of higher prices post-accession. The European Commission has demanded that 155,000 metric tons (171,000 short tons) of this "hoarded sugar" be disposed of outside the EU food-use market, either by processing into animal feed or biofuels, or by export without subsidy. *F.O. Licht's International Sugar and Sweetener Report*, June 3, 2005, attached as exh. 27 to the Domestic industry's posthearing brief.

[27] USDA *Sugar and Sweetener Outlook* No. SSS-243, May 31, 2005, p. 31.

[28] Domestic industry's posthearing brief, July 7, 2005, p. 5.

Table IV-10
Sugar: Production in the European Union, marketing years 1999/2000-2005/06

Territory	Marketing year						
	1999/2000	2000/01	2001/02	2002/03[1]	2003/04	2004/05[2]	2005/06[2]
	Quantity (*1,000 short tons raw value*)						
Belgium	1,308	1,129	963	1,221	1,232	1,187	1,133
France	5,513	5,164	4,446	5,628	5,072	5,410	5,129
Germany	5,248	5,223	4,464	4,801	4,496	5,181	4,659
Other EU-15	9,477	8,899	7,968	8,589	7,394	8,016	7,737
Total EU-15	21,546	20,415	17,841	20,239	18,194	19,794	18,658
Total EU-NMS	(3)	(3)	(3)	(3)	3,576	4,028	3,878
Total EU-25	(3)	(3)	(3)	(3)	21,771	23,822	22,537
	Share (*percent*)						
Belgium	6.1	5.5	5.4	6.0	5.7	5.0	5.0
France	25.6	25.3	24.9	27.8	23.3	22.7	22.8
Germany	24.4	25.6	25.0	23.7	20.7	21.7	20.7
Other EU-15	44.0	43.6	44.7	42.4	34.0	33.6	34.3
Total EU-15	100.0	100.0	100.0	100.0	83.6	83.1	82.8
Total EU-NMS	(3)	(3)	(3)	(3)	16.4	16.9	17.2
Total EU-25	(3)	(3)	(3)	(3)	100.0	100.0	100.0

[1] Production data for marketing year 2002/03 include only sugar produced from beets.
[2] Production data for marketing years 2004/05 and 2005/06 are estimates.
[3] Not available.

Note.–Data presented above have been converted from metric to short tons using the following conversion factor: 1 metric ton = 1.10231125 short tons.

Source: Compiled from data contained in FAS GAIN Report numbers E35080, E34087, E23056, E22037, and E21039.

As noted above, on June 22, 2005, the European Commission published its proposed reforms of the EU's sugar program, which, the Commission claims, will result in a significant reduction of EU sugar production, and a realignment of the EU sugar sector towards its most competitive regions.[29] European Commission officials estimate that, if adopted, the proposed reforms would result in a 38-percent

[29] Presentation of J.M. Trarieux, Agricultural Attache, Delegation of the European Commission to the U.S., to the Global Business Dialogue, Washington, DC, June 23, 2005.

Table IV-11
Sugar: EU production, imports and shipments, marketing years 1999/2000-2005/06[1]

Item	Marketing year						
	1999/2000	2000/01	2001/02	2002/03	2003/04	2004/05[2]	2005/06[2]
	Quantity (*1,000 short tons raw value*)						
Beginning stocks[3]	3,425	4,112	3,770	2,995	4,259	5,180	5,885
Production	21,546	20,415	17,841	20,581	18,195	23,822	22,537
Imports	1,969	2,027	2,300	2,244	2,196	2,488	2,488
Total supply	26,939	26,554	23,911	25,821	24,650	31,490	30,910
Exports	6,766	7,283	4,915	5,821	5,197	6,066	5,912
EU shipments	16,010	15,895	15,798	15,885	15,863	19,538	19,609
Total use	22,776	23,178	20,173	21,706	21,060	25,604	25,521
Ending stocks	4,163	3,375	3,198	4,113	3,589	5,885	5,389

[1] Data for 1999/2000-2003/04 include the EU-15 only; data for 2004/05 and 2005/06 include the expanded EU-25.
[2] Data for 2004/05 and 2005/06 are estimates.
[3] Beginning stocks to not match the preceding year's ending stocks due to annual FAS data revisions.

Source: FAS, PS&D Official Statistics, available at *www.fas.usda.gov/psd/complete_tables/HTP-table10-91.htm*; and FAS GAIN Report Nos. E35080, E374087, E23056, E22037, and E21039.

reduction in EU sugar production by 2012/13, as well as the elimination of C-sugar production, a 70-percent increase in sugar imports, and the virtual elimination of sugar exports.[30]

EU Export Markets

Data regarding the European Union's key export markets are presented in tables IV-12 (by region) and IV-13 (by country). As indicated in table IV-12, the Middle East is the largest customer for EU sugar exports, accounting for at least a third of all exports over the period examined. European countries outside the European Union are the second largest destination for EU sugar exports, accounting for 22 percent of total EU exports in 2004. North Africa was another major destination for EU sugar exports, accounting for 13 percent of total exports in 2004. EU sugar exports to NAFTA countries (including the United States) accounted for less than 0.5 percent of its total sugar exports in every year of the period examined. The unit values of EU sugar exports to NAFTA countries are markedly higher than those of exports to other regions.

[30] Ibid. According to the European Commission's representative, the European Union would export only specialty sugars by 2012/13 if the proposed reforms were to be adopted.

Table IV-12
Sugar: EU exports, by region, calendar years 1999-2004[1]

Region	Calendar year					
	1999	2000	2001	2002	2003	2004
				Quantity (*short tons*)		
Middle east	1,884,797	2,117,104	2,006,306	1,582,252	1,747,837	1,652,713
Non-EU Europe	862,650	924,583	1,105,825	1,027,759	1,286,514	932,326
North Africa	1,074,478	1,427,031	1,315,523	1,031,659	804,256	579,079
Central Asia[2]	230,801	300,939	278,807	178,649	201,478	393,251
LDCs[3]	488,684	554,262	624,493	386,232	383,184	205,269
South/Central America	119,329	98,682	122,606	101,151	115,351	116,271
NAFTA	2,234	2,084	1,602	1,321	1,177	1,334
Other	592,764	878,946	894,488	435,520	550,903	428,917
Total exports	5,255,738	6,303,632	6,349,649	4,744,543	5,090,700	4,309,160
				Value[4] (*$1,000*)		
Middle east	415,468	532,815	595,413	401,816	366,388	346,820
Non-EU Europe	249,944	263,328	371,954	339,409	334,019	245,132
North Africa	225,301	361,438	397,615	266,116	172,416	132,072
Central Asia	62,013	83,742	84,951	45,896	41,844	84,730
LDCs[2]	119,130	154,473	200,406	107,621	94,485	50,939
South/Central America	32,092	25,036	33,817	27,186	26,447	24,642
NAFTA	2,423	2,322	1,848	1,809	1,706	1,898
Other	136,163	225,911	272,833	123,730	129,429	106,246
Total exports	1,242,533	1,649,065	1,958,836	1,313,581	1,166,733	992,481

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Table IV-12--*Continued*
Sugar: EU exports, by region, calendar years 1999-2004[1]

Region	Calendar year					
	1999	2000	2001	2002	2003	2004
	Unit value (*per short ton*)					
Middle east	$220	$252	$297	$254	$210	$210
Non-EU Europe	290	285	336	330	260	263
North Africa	210	253	302	258	214	228
Central Asia[2]	269	278	305	257	208	215
LDCs[3]	244	279	321	279	247	248
South/Central America	269	254	276	269	229	212
NAFTA	1,084	1,114	1,154	1,370	1,449	1,423
Other	230	257	305	284	235	248
Total exports	236	262	308	277	229	230
	Share of quantity (*percent*)					
Middle east	35.9	33.6	31.6	33.3	34.3	38.4
Non-EU Europe	16.4	14.7	17.4	21.7	25.3	21.6
North Africa	20.4	22.6	20.7	21.7	15.8	13.4
Central Asia	4.4	4.8	4.4	3.8	4.0	9.1
LDCs[2]	9.3	8.8	9.8	8.1	7.5	4.8
South/Central America	2.3	1.6	1.9	2.1	2.3	2.7
NAFTA	(5)	(5)	(5)	(5)	(5)	(5)
Other	11.3	13.9	14.1	9.2	10.8	10.0
Total exports	100.0	100.0	100.0	100.0	100.0	100.0

[1] EU export data include the EU-15 for calendar years 1999-2003, and the EU-25 for calendar year 2004.
[2] A grouping of 46 (primarily African) "least developed countries."
[3] Includes Russia.
[4] Free alongside ship.
[5] Less than 0.5 percent.

Note.–Quantity data have been converted from metric tons using a conversion factor of 1 metric ton = 1.1023 short tons. Value data have been converted from euros at the July 14, 2005 conversion rate of €1.00 = $1.208.

Source: Compiled from data of the Statistical Office of the European Communities (Eurostat).

Table IV-13
Sugar: Top 20 EU export destinations (and United States), by country, calendar years 1999-2004[1]

Country	Calendar year					
	1999	2000	2001	2002	2003	2004
	Quantity (*short tons*)					
Israel	452,471	437,886	478,441	512,566	561,833	621,573
Syria	413,974	460,113	650,426	509,727	611,698	530,031
Algeria	665,798	840,543	848,383	634,208	352,496	368,777
Switzerland	150,887	196,320	184,785	224,791	258,589	304,758
Norway	187,727	178,865	186,138	177,560	182,372	173,415
Lebanon	112,586	100,440	115,512	125,615	162,102	160,639
United Arab Emirates	284,756	363,804	251,387	128,092	109,277	155,019
Sri Lanka	54,596	177,373	145,797	45,097	47,655	120,746
Croatia	71,221	56,437	43,086	51,308	101,728	114,541
Tunisia	125,430	131,199	107,084	56,319	164,325	92,056
Indonesia	122,736	98,181	134,291	41,603	161,348	85,946
Kuwait	72,300	61,609	77,273	61,243	93,750	82,781
Egypt	141,921	264,918	194,947	108,639	116,971	80,863
Romania	75,083	41,901	40,377	20,824	33,050	80,715
Russia	17,456	172,735	75,288	106,110	21,299	77,897
Bosnia and Herzegovina	52,539	56,052	96,843	89,303	85,412	76,117
Ukraine	46	62	287	67	5,512	73,957
Albania	48,651	67,117	65,059	79,904	106,694	69,413
Uzbekistan	100,494	59,251	92,387	38,600	55,945	68,833
Tajikistan	1,623	1,459	8,673	11,015	37,033	65,704
U.S.A.	830	1,349	993	873	822	930
Other	2,102,613	2,536,018	2,552,192	1,721,081	1,820,791	904,449
Total exports	5,255,738	6,303,632	6,349,649	4,744,543	5,090,700	4,309,160

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Table IV-13--*Continued*
Sugar: Top 20 EU export destinations (and United States), by country, calendar years 1999-2004[1]

Country	Calendar year					
	1999	2000	2001	2002	2003	2004
	Value[2] (*$1,000*)					
Israel	103,488	106,490	137,887	127,793	115,115	127,486
Syria	88,875	112,585	189,092	129,244	122,277	109,645
Algeria	141,123	208,218	262,204	164,675	74,277	72,964
Switzerland	39,398	48,126	54,418	65,895	65,710	74,717
Norway	64,775	58,285	67,118	64,148	54,273	48,478
Lebanon	25,406	25,843	35,542	33,541	37,105	34,941
United Arab Emirates	60,738	90,435	76,080	31,674	23,618	31,905
Sri Lanka	11,290	42,135	40,699	10,680	9,139	31,463
Croatia	14,674	12,335	13,254	20,144	24,366	27,195
Tunisia	25,471	30,427	32,082	13,566	32,315	17,847
Indonesia	29,037	24,770	39,741	9,894	33,409	17,309
Kuwait	16,343	16,284	24,029	16,351	21,640	18,731
Egypt	29,671	77,305	57,469	27,523	25,559	15,885
Romania	26,442	13,232	23,418	11,356	12,403	30,687
Russia	6,947	53,648	22,371	26,912	5,032	17,451
Bosnia and Herzegovina	12,746	15,387	29,395	31,749	22,714	16,820
Ukraine	55	73	192	98	1,597	15,434
Albania	14,442	16,739	21,722	21,632	24,103	13,317
Uzbekistan	31,040	14,176	27,727	9,777	9,810	15,878
Tajikistan	427	305	2,823	2,809	6,876	13,496
U.S.A.	1,322	1,549	1,042	1,159	1,228	1,327
Other	498,824	680,718	800,531	492,960	444,166	239,503
Total exports	1,242,533	1,649,065	1,958,836	1,313,581	1,166,733	992,481

Table continued on next page

Table IV-13--*Continued*
Sugar: Top 20 EU export destinations (and United States), by country, calendar years 1999-2004[1]

Country	Calendar year					
	1999	2000	2001	2002	2003	2004
	Unit value (*per short ton*)					
Israel	$229	$243	$288	$249	$205	$205
Syria	215	245	291	254	200	207
Algeria	212	248	309	260	211	198
Switzerland	261	245	294	293	254	245
Norway	345	326	361	361	298	280
Lebanon	226	257	308	267	229	218
United Arab Emirates	213	249	303	247	216	206
Sri Lanka	207	238	279	237	192	261
Croatia	206	219	308	393	240	237
Tunisia	203	232	300	241	197	194
Indonesia	237	252	296	238	207	201
Kuwait	226	264	311	267	231	226
Egypt	209	292	295	253	219	196
Romania	352	316	580	545	375	380
Russia	398	311	297	254	236	224
Bosnia and Herzegovina	243	275	304	356	266	221
Ukraine	1,189	1,177	669	1,457	290	209
Albania	297	249	334	271	226	192
Uzbekistan	309	239	300	253	175	231
Tajikistan	263	209	325	255	186	205
U.S.A.	1,592	1,148	1,049	1,328	1,494	1,427
Other	237	268	314	286	244	265
Total exports	236	262	308	277	229	230

Table continued on next page

Table IV-13--*Continued*
Sugar: Top 20 EU export destinations (and United States), by country, calendar years 1999-2004[1]

Country	Calendar year					
	1999	2000	2001	2002	2003	2004
	Unit value (*cents per pound*)					
Israel	11.44	12.16	14.41	12.47	10.24	10.26
Syria	10.73	12.23	14.54	12.68	9.99	10.34
Algeria	10.60	12.39	15.45	12.98	10.54	9.89
Switzerland	13.06	12.26	14.72	14.66	12.71	12.26
Norway	17.25	16.29	18.03	18.06	14.88	13.98
Lebanon	11.28	12.86	15.38	13.35	11.45	10.88
United Arab Emirates	10.66	12.43	15.13	12.36	10.81	10.29
Sri Lanka	10.34	11.88	13.96	11.84	9.59	13.03
Croatia	10.30	10.93	15.38	19.63	11.98	11.87
Tunisia	10.15	11.60	14.98	12.04	9.83	9.69
Indonesia	11.83	12.61	14.80	11.89	10.35	10.07
Kuwait	11.30	13.22	15.55	13.35	11.54	11.31
Egypt	10.45	14.59	14.74	12.67	10.93	9.82
Romania	17.61	15.79	29.00	27.27	18.76	19.01
Russia	19.90	15.53	14.86	12.68	11.81	11.20
Bosnia and Herzegovina	12.13	13.73	15.18	17.78	13.30	11.05
Ukraine	59.47	58.87	33.46	72.85	14.49	10.43
Albania	14.84	12.47	16.69	13.54	11.30	9.59
Uzbekistan	15.44	11.96	15.01	12.66	8.77	11.53
Tajikistan	13.17	10.46	16.27	12.75	9.28	10.27
U.S.A.	79.62	57.41	52.47	66.39	74.68	71.33
Other	11.85	13.40	15.70	14.30	12.20	13.25
Total exports	11.82	13.08	15.42	13.84	11.46	11.52
World price[3]	9.10	9.97	11.29	10.35	9.74	10.87

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Table IV-13--*Continued*
Sugar: Top 20 EU export destinations (and United States), by country, calendar years 1999-2004[1]

Country	Calendar year					
	1999	2000	2001	2002	2003	2004
	Share of quantity (*percent*)					
Israel	8.6	6.9	7.5	10.8	11.0	14.4
Syria	7.9	7.3	10.2	10.7	12.0	12.3
Algeria	12.7	13.3	13.4	13.4	6.9	8.6
Switzerland	2.9	3.1	2.9	4.7	5.1	7.1
Norway	3.6	2.8	2.9	3.7	3.6	4.0
Lebanon	2.1	1.6	1.8	2.6	3.2	3.7
United Arab Emirates	5.4	5.8	4.0	2.7	2.1	3.6
Sri Lanka	1.0	2.8	2.3	1.0	0.9	2.8
Croatia	1.4	0.9	0.7	1.1	2.0	2.7
Tunisia	2.4	2.1	1.7	1.2	3.2	2.1
Indonesia	2.3	1.6	2.1	0.9	3.2	2.0
Kuwait	1.4	1.0	1.2	1.3	1.8	1.9
Egypt	2.7	4.2	3.1	2.3	2.3	1.9
Romania	1.4	0.7	0.6	0.4	0.6	1.9
Russia	0.3	2.7	1.2	2.2	0.4	1.8
Bosnia and Herzegovina	1.0	0.9	1.5	1.9	1.7	1.8
Ukraine	(4)	(4)	(4)	(4)	0.1	1.7
Albania	0.9	1.1	1.0	1.7	2.1	1.6
Uzbekistan	1.9	0.9	1.5	0.8	1.1	1.6
Tajikistan	(4)	(4)	0.1	0.2	0.7	1.5
U.S.A.	(4)	(4)	(4)	(4)	(4)	(4)
Other	40.0	40.2	40.2	36.3	35.8	21.0
Total exports	100.0	100.0	100.0	100.0	100.0	100.0

[1] EU export data include the EU-15 for calendar years 1999-2003, and the EU-25 for calendar year 2004.
[2] Free alongside ship.
[3] Contract No. 5, London Daily Price, for refined sugar, f.o.b. Europe, spot.
[4] Less than 0.5 percent.

Note.–Quantity data have been converted from metric tons using a conversion factor of 1 metric ton = 1.1023 short tons. Value data have been converted from euros at the July 14, 2005 conversion rate of €1.00 = $1.208.

Source: Compiled from data of the Statistical Office of the European Communities (Eurostat).

Table IV-13 provides official EU statistical data for the 20 leading export markets for EU sugar in 2004 (the United States is included in this table for comparison). Exports to the 20 countries identified in this table accounted for nearly 80 percent of total EU sugar exports in 2004. As indicated in the table, Israel, Syria, and Algeria were leading export markets for EU sugar throughout the period examined. The United States ranked 105th in terms of EU sugar export destinations in 2004.

Tariff rates and associated taxes for sugar imports in the European Union's 20 largest 2004 export markets are presented in table IV-14. EU exports of refined sugar benefit from preferential tariff treatment in a number of the countries listed in table IV-14. Among the European Union's most prominent preferential trading arrangements are the Euro-Mediterranean Association Agreements, either effective or pending, with various Mediterranean countries, including Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, and Turkey.[31] These countries include the European Union's three largest customers for sugar (Algeria, Israel, and Algeria), and accounted for over 40 percent of total EU sugar exports in 2004.

According to information submitted by the U.S. industry in these reviews, sugar from the European Union is subject to a countervailing duty order in Canada, while sugar from EU member-states Denmark, Germany, the Netherlands, and the United Kingdom are also subject to Canadian antidumping duty orders.[32] Sugar from the European Union is not known to be subject to any trade remedy measures in other third country markets.

EU Export Policy

EU sugar export restitution payments (or refunds) were introduced with the establishment of the common organisation of the market (or EU sugar program) in 1968. The total EU sugar production quota was set higher than the level of EU consumption, and the export refund was intended to cover the difference between the internal EU price and the world price for sugar. As noted in table IV-5, the EU refined sugar intervention price is presently set at $692.49 per short ton (35 cents per pound). The per-pound unit values of EU sugar export shipments are presented table IV-13, above. As noted in the table, the average unit value of EU sugar exports in 2004 was 11.52 cents per pound, while the average world price for refined sugar was 10.87 cents per pound. In its final review of the countervailing duty order on sugar from the European Union, Commerce determined that, between 1999 and 2004, the average restitution payment to EU sugar exporters was 21.73 cents per pound.[33]

EU export refunds apply to sugar obtained from beet or cane harvested within the European Union, and to sugar produced from raw sugar imported under the Union's ACP Protocal/India Agreement. Refunds are mainly granted under a standing invitation to tender; the level of the refund is fixed every 7-14 days, on the basis, among other things, of tenders submitted by exporters, the state of the world sugar market, and "foreseeable developments and maximum quantities that may be exported during the marketing year."[34] Export restitution payments are financed through levies on EU producers

[31] European Union web site: *http://europa.eu.int/comm/external_relations/euromed/med_ass_agreemnts.htm*.

[32] Domestic industry's prehearing brief, June 17, 2005, p. 34.

[33] 70 FR 44896 (August 4, 2005).

[34] Description of the Common Organisation of the Market in Sugar, September 2004, p. 22, available at *http://europa.eu.int/comm/agriculture/markets/sugar/index_en.htm*.

Table IV-14
Sugar: EU export destination tariff rates, by country

Country	Share of 2004 EU exports (*percent*)	Refined sugar tariff rate[1]
Israel	14.4	Free
Syria	12.3	15% + 14% tax
Algeria	8.6	30% + 17% VAT + 2.4% customs charges
Switzerland	7.1	$1.64/lb. + 0.5-1.0% + 2.4% VAT
Norway	4.0	Free
Lebanon	3.7	Less than 5%
United Arab Emirates	3.6	5%
Sri Lanka	2.8	$0.02/lb.
Croatia	2.7	$0.02/lb.[2]
Tunisia	2.1	15%
Indonesia	2.0	$0.03/lb. + 10% VAT
Kuwait	1.9	5%
Egypt	1.9	12%
Romania	1.9	90%[3]
Russia	1.8	50%
Bosnia and Herzegovina	1.8	10%
Ukraine	1.7	50% (but not less than $0.20/lb.)
Albania	1.6	10%
Uzbekistan	1.6	30%
Tajikistan	1.5	5%

[1] Tariff rate percentages are *ad valorem*.
[2] The EU is also granted one-third of Croatia's total in-quota sugar TRQ allocation (15,000 metric tons in 2003). In-quota imports are levied an *ad valorem* rate of 15 percent.
[3] In-quota sugar imports in Romania are levied a 18.8 percent tariff; the European Union is permitted to ship 20,000 metric tons to Romania in-quota.

Source: Compiled from country tariff schedules, available at *www.trade.gov/td/tic/tariff/country_tariff_info.htm*; Euro-Mediterranean Association Agreements, available at *http://europa.eu.int/comm/external_relations/euromed/med_ass_agreemnts.htm*; EU Market Access Database, available at *http://mkaccdb.eu.int/mkaccdb2/indexPubli.htm*; USDA GAIN reports.

based on their in-quota sugar production.[35] Record evidence in these reviews suggests that EU export refunds have been limited, if not reduced, in the 2004/05 marketing year.[36]

NONSUBJECT TERRITORIES

Figures IV-1-IV-4 present the world's ten leading producers, consumers, importers, and exporters of sugar in 2004, based on official USDA statistics. As illustrated in these figures, both the United States and the EU rank among the world's five largest producers, importers, and consumers of sugar. Brazil is the world's largest producer and exporter of sugar, accounting for 20 percent of global sugar production, and 40 percent of global sugar exports in 2004. As noted previously in this report, Brazil has the second largest allocation within the United States' TRQ for raw sugar. A recent USDA report referred to Brazil as "the emerging giant of the global sugar industry."[37] The country has benefitted from expanding sugar cane farm acreage and improving sugar cane yields, and plans to continue expanding cane fields, while increasing investment in processing and port facilities.[38]

U.S. FREE TRADE AGREEMENTS

Counsel to the U.S. industry has argued that potential U.S. commitments under free trade agreements currently under negotiation have contributed to uncertainties in the market that have resulted in a "vulnerable domestic sugar industry."[39] A list of the free trade agreements concluded or currently being negotiated by the United States, as well as each agreement's sugar-relevant provisions, is presented in table IV-15.

As noted in Part I, in-quota sugar imports from Canada, Chile, Jordan, Mexico, and Singapore currently enter the United States duty-free (*see* table I-5). Duty-free treatment for sugar imports from Chile are subject to a trade surplus requirement,[40] while imports from Mexico are subject to a production surplus requirement[41] and are limited to 275,578 short tons per year. In-quota TRQ quantities for Jordan and Singapore will increase annually for 10 years (from the date of agreement completion), after which time all sugar imports will be duty-free. Sugar imports from Chile will be accorded full duty-free treatment after 12 years. All duties on sugar imported from Mexico (whether in- or over-quota) will be eliminated by 2008, as will the production surplus requirement for duty-free treatment.

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[35] Ibid., p. 14. According to the European Commission, production levies "must cover the 'overall loss' which is equal to the sum of the average {export} refund multiplied by the surplus of quota production relative to Community consumption..."

[36] The USDA's most recent *Sugar and Sweetener Outlook* report (No. SSS-243, May 31, 2005, p. 31), included at exh. 4 of the domestic industry's posthearing brief, notes that "{EU} export subsidies proved low enough through April 2005 for 247,000 mt to be sold into intervention, the first time intervention has been used since 1986." A *Czarnikow Sugar Review* article also submitted by the domestic industry in its posthearing brief (exh. 1) notes that "{EU} export subsidies have been severely restricted due to the {European} Commission's insistence on keeping within budget limits, which in turn are related to the ceilings on export subsidies set during the WTO Uruguay Round on Agriculture."

[37] USDA's *Sugar and Sweetener Outlook* No. SSS-242, January 28, 2005, pp. 22 and 30.

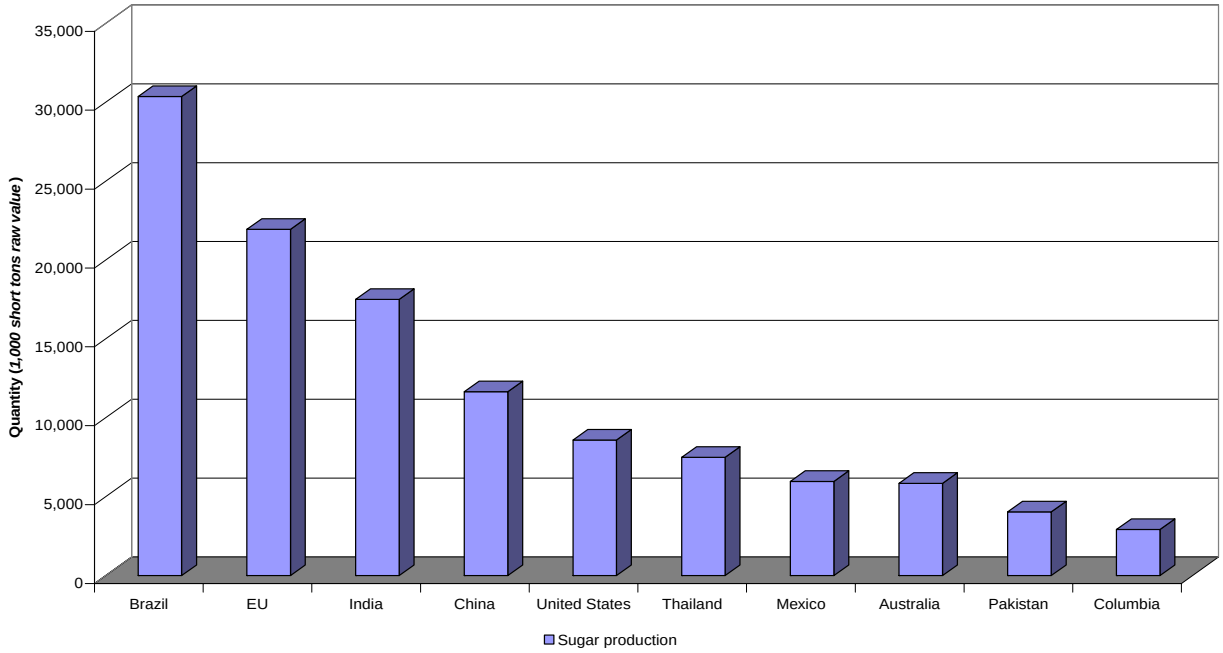
[38] Ibid., p. 21.

[39] Domestic industry's response to the notice of institution, October 21, 2004, p. 29.

[40] A trade surplus requirement stipulates that only export quantities in excess of a trade partner's sugar imports may be exported to the United States.

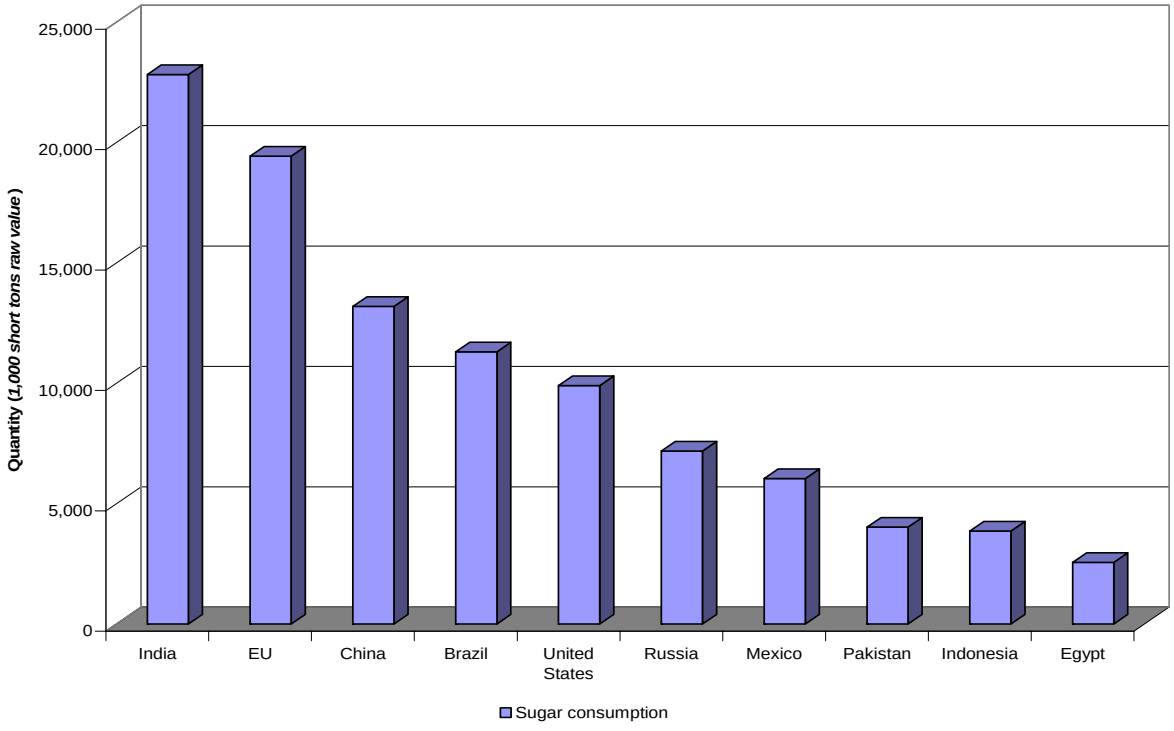
[41] A production surplus requirement stipulates that only production quantities in excess of a trade partner's domestic consumption may be exported to the United States.

Figure IV-1
Sugar: World's ten largest sugar producing countries, 2004/05



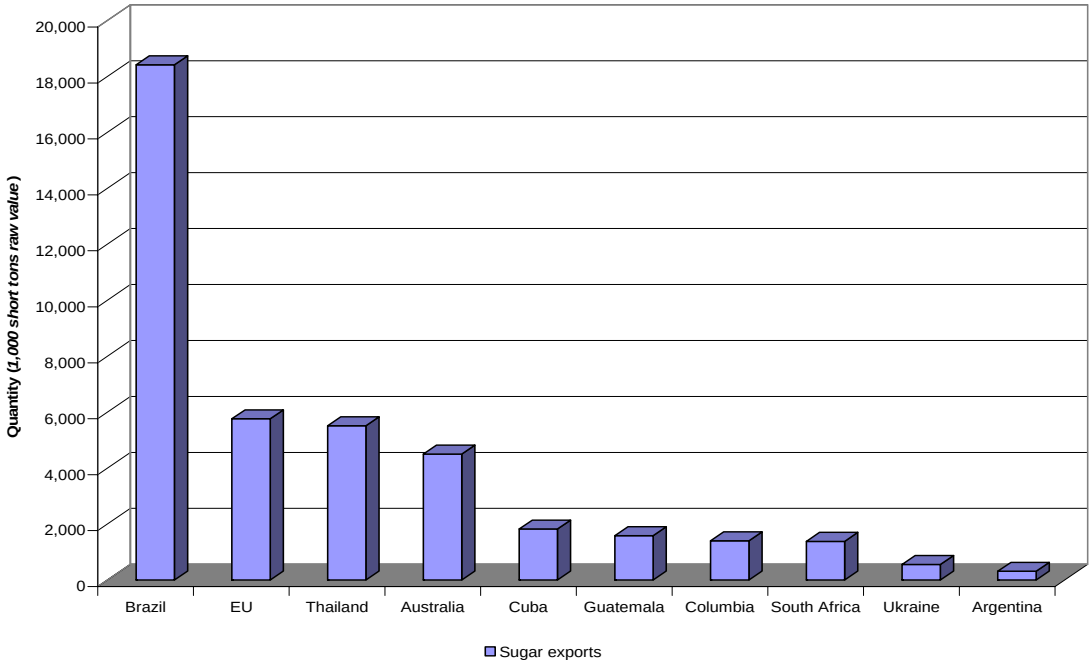
Source: Compiled from data contained in the USDA's *World Markets and Trade Report* (Sugar), May 2004, retrieved at *www.fas.usda.gov/htp/sugar/2004*.

Figure IV-2
Sugar: World's ten largest sugar consuming countries, 2004/05



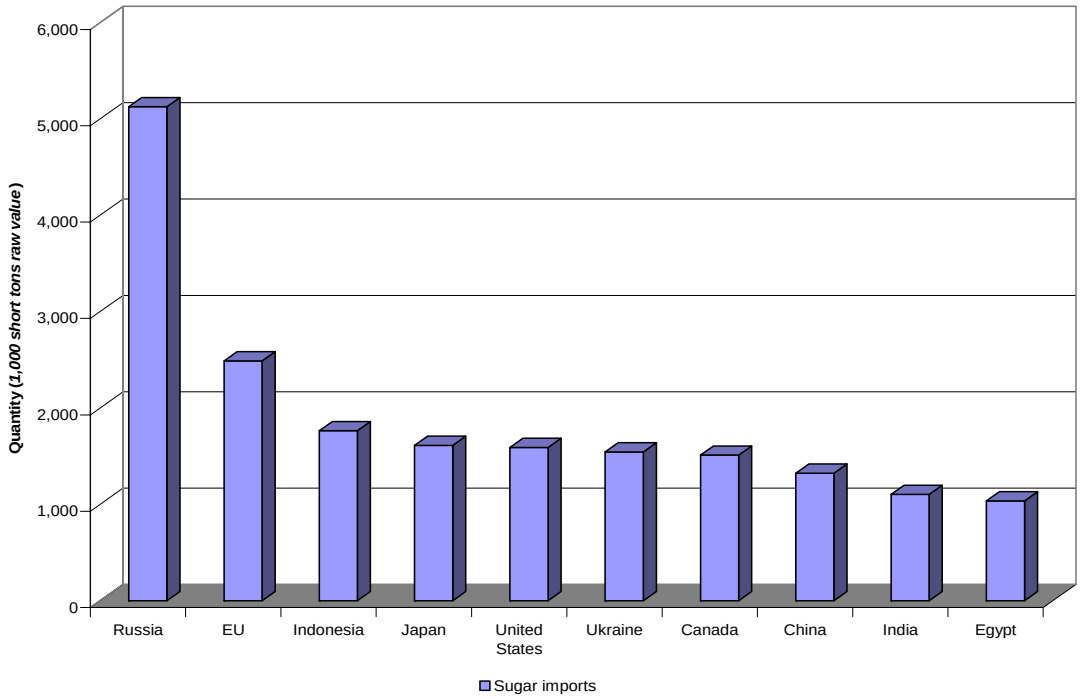
Source: Compiled from data contained in the USDA's *World Markets and Trade Report* (Sugar), May 2004, retrieved at *www.fas.usda.gov/htp/sugar/2004*.

Figure IV-3
Sugar: World's ten largest sugar exporting countries, 2004/05



Source: Compiled from data contained in the USDA's *World Markets and Trade Report* (Sugar), May 2004, retrieved at *www.fas.usda.gov/htp/sugar/2004*.

Figure IV-4
Sugar: World's ten largest sugar importing countries, 2004/05



Source: Compiled from data contained in the USDA's *World Markets and Trade Report* (Sugar), May 2004, retrieved at *www.fas.usda.gov/htp/sugar/2004*.

Table IV-15
Sugar: U.S. existing and potential free trade agreements and their sugar-relevant provisions

FTA partner country/region	Sugar-relevant provisions
Existing agreements	
Canada/NAFTA	• In-quota imports duty-free. • Imports not subject to safeguards measures.
Mexico/NAFTA	• Currently only allowed to export production in surplus of domestic consumption, up to 250,000 metric tons (275,578 short tons), duty free. • Surplus production requirement and all duties phased out by 2008. • Imports not subject to safeguards measures
Australia	• Imports not subject to safeguards measures.
Chile	• TRQ quantity increased over 12 years; unrestricted imports thereafter. • Trade surplus requirement for duty-free treatment. • Imports not subject to safeguards measures.
Israel	• None.
Jordan	• TRQ quantity increased over 10 years; unrestricted imports thereafter. • Imports not subject to safeguards measures.
Singapore	• TRQ quantity increased over 10 years; unrestricted imports thereafter. • Imports not subject to safeguards measures.
Agreement concluded	
CAFTA-DR[1]	• Sugar TRQs immediately increased by 109,000 metric tons (120,152 short tons), increasing to 153,140 metric tons (168,808 short tons) after 15 years, and 2,640 metric tons (2,910 short tons) annually thereafter. • Over-quota tariffs remain. • Trade surplus requirement for duty-free treatment. • Compensation mechanism for restricted imports. • Imports not subject to safeguards measures.
Agreements under negotiation	
Morocco	• TRQ quantity increased over 15 years; unrestricted imports thereafter. • Trade surplus requirement for duty-free treatment. • Imports not subject to safeguards measures.
Andean countries[2]	• No details available.
Bahrain	• No details available.
FTAA[3]	• No details available.
Panama	• No details available.
SACU[4]	• No details available.
Thailand	• No details available.

[1] Central American Free Trade Agreement, including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, as well as the Dominican Republic ("DR"). CAFTA-DR was signed into law by the President on August 2, 2005; it will enter into effect upon mutual agreement among its signatory countries.
[2] Bolivia, Columbia, Ecuador, and Peru.
[3] Free Trade Area of the Americas, including all countries on the North and South American continents, excluding Cuba.
[4] South African Customs Union, which includes Botswana, Lesotho, Namibia, South Africa, and Swaziland.

Source: Compiled from public USDA and USTR sources.

Sugar is not included in the free trade agreements concluded with Australia and Israel, though imports from Australia, as with imports from Canada, Chile, Jordan, Mexico, and Singapore, are exempt from safeguard actions. Imports from Israel remain subject to safeguards.

On August 2, 2005, the President signed the CAFTA-DR into law, following its approval by the U.S. Congress.[42] Under the provisions of this agreement, aggregate TRQ import quantities for the six signatory countries will increase by 120,152 short tons immediately, by 168,808 short tons after 15 years, and by 2,910 short tons annually thereafter. Over-quota tariffs will remain, and a trade surplus requirement will apply for duty-free treatment of (in-quota) sugar imports. Imports from CAFTA-DR countries will not be subject to safeguard action, although sugar imports can be restricted in return for "alternative compensation." Previous analysis conducted by the Commission projected a 1-percent decrease in the U.S. sugar price as a result of increased imports under the CAFTA-DR free trade agreement.[43]

The United States is currently negotiating free trade agreements with seven territories, each of which is identified in table IV-15. Under the provisions of the U.S.-Morocco free trade agreement, as presently drafted, Morocco's in-quota sugar imports would enter the United States duty-free, with quota quantities increasing gradually over 15 years, after which sugar imports would be unrestricted. A trade surplus requirement would apply for duty-free treatment of sugar imports, and imports would not be subject to safeguard action. No details are presently available regarding the provisions of other free trade agreements currently being negotiated.

U.S. producers were asked to comment on the impact of free trade agreements on their sugar operations in their responses to the Commission's questionnaires in these reviews. Beet processors reported concerns that any increase in the domestic supply of sugar resulting from increased imports of sugar from Mexico or, potentially, from CAFTA countries, would have a negative impact on U.S. prices, and could trigger the suspension of marketing allotments. One processor reported that the "multitude" of regional and bilateral free trade agreements, both existing and potential, could "cause the demise of the entire sugar industry."[44] Integrated cane sugar refiners reported that trade agreements had increased competition from imports, though one independent refiner reported that lower raw sugar prices resulting from increased imports would result in "increasing profits through lower cost or additional market share."[45]

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[42] According to Commerce's web site (*http://ita.doc.gov/cafta/index.asp*), as of August 2, 2005, CAFTA-DR had been approved by the legislatures of three other signatory countries, and is pending approval in three others. The agreement will enter into effect on a date "to be agreed upon among the parties."

[43] *U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects*, Investigation No. TA-2104-13, USITC Publication 3717, August 2004, p. 47.

[44] ***'s response to the processors'/refiners' questionnaire, p. 12.

[45] ***'s response to the processors'/refiners' questionnaire, p. 12. In a recent *Business Week* Letter to the Editor (July 4, 2005), the President of Imperial Sugar, *** independent refiner, noted his company's support for CAFTA. According to his letter, "additional imported sugar will provide for a more stable supply and save jobs at independent refineries."

Mexico

As noted above, duty-free imports of sugar from Mexico under NAFTA are subject to a production surplus requirement until 2008. Counsel to the U.S. sugar industry in the present reviews has argued that, due in part to a tax on Mexican carbonated soft drinks containing high fructose corn syrup ("HFCS"),[46] Mexico has not had surplus sugar to export to the United States in recent years.[47] The industry further argues that Mexican sugar production has recovered, and that the country is likely to be a surplus producer in "the near term."[48] Official USDA statistics relating to Mexico's sugar production, imports, exports, and consumption, as well as consumption of HFCS, are presented in table IV-16.

Table IV-16
Sugar: Mexican production, supply, and utilization, Federal fiscal years 1999-2006

Item	Fiscal year							
	1999	2000	2001	2002	2003	2004	2005[1]	2006[1]
	Quantity (*1,000 short tons*)							
Beginning stocks	1,092	1,038	1,174	1,707	1,293	1,317	1,365	2,115
Production	5,492	5,488	5,754	5,698	5,764	5,875	6,614	6,198
Imports	45	41	47	57	69	360	220	111
Total supply	6,630	6,568	6,975	7,463	7,126	7,553	8,199	8,425
Consumption	5,014	5,044	5,096	5,714	5,767	6,173	6,070	6,144
Exports	577	351	172	455	42	15	13	13
Total use	5,592	5,394	5,268	6,170	5,809	6,188	6,084	6,157
Ending stocks	1,038	1,174	1,707	1,293	1,317	1,365	2,115	2,267
HFCS consumption	529	639	661	290	143	149	331	331
Production surplus[2]	477	444	658	(17)	(3)	(298)	543	54
	Ratio (*percent*)							
Stocks-to-use	18.6	21.8	32.4	21.0	22.7	22.1	34.8	36.8

[1] Forecast.
[2] Production surplus equals production minus consumption.

Note.–Due to rounding in the original data source, items may not add to the totals shown.

Source: Reproduced from USDA *Sugar and Sweeteners Outlook* No. SSS-243, May 31, 2005, table 9, p. 22.

[46] On June 10, 2004, the United States requested that the WTO's DSB establish a panel to examine Mexico's tax on beverages containing HFCS, arguing that the tax discriminated against imported sweeteners. A panel was established on July 6, 2004, and will issue its final report in August 2005.

[47] Domestic industry's prehearing brief, p. 18.

[48] Ibid.

As indicated in table IV-16, Mexico's production of sugar increased by 7 percent between 1999 and 2004, from 5.5 million to 5.9 million short tons, and is forecast to increase to 6.6 million short tons in 2005. Sugar consumption in Mexico increased by 23 percent between 1999 and 2004, from 5.0 million to 6.2 million short tons, and is forecast to decline to 6.1 million short tons in 2005. The more rapid growth of consumption than production led to Mexico's production surplus being reduced from 658,000 short tons in 2001 to a production deficit of 17,000 short tons in 2002;[49] this deficit increased to 298,000 short tons in 2004. At the same time, Mexico's exports of sugar decreased by 91 percent between 2002 and 2003, from 455,000 to 42,000 short tons. USDA forecasts suggest that Mexico's sugar production will return to surplus in 2005, but do not suggest any increase in the country's sugar exports.

[49] The law implementing Mexico's tax on carbonated beverages containing HFCS ("Law on the Special Tax on Production and Services") was published on January 1, 2002.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICING

Raw Material Costs

A large majority of the cost of production for both sugar cane milling and sugar beet processing is the cost of raw materials, sugar cane and sugar beets, respectively. Raw material costs made up over 70 percent of the cost of goods sold for processors/refiners during 2004.

Inland Transportation Costs

Transportation costs on U.S. inland shipments of refined sugar account for a fairly large share of the delivered price of these products. When asked to estimate these costs as a percentage of their delivered prices, the majority of the estimates by responding processors/refiners ranged between 7 and 10 percent.

U.S. processors/refiners were asked to report shipping distances for refined sugar sold in the United States. The responses indicate that 21 percent of their U.S. sales occurred within 100 miles of their storage or production facility, 59 percent were within distances of 101 to 1,000 miles, and 20 percent occurred at distances of more than 1,000 miles from their facilities.

Transportation Costs to the U.S. Market

Ocean transportation costs to the United States as a percentage of the customs value were calculated for all of the subject countries. These estimates were derived from official import data and represent the transportation and other charges on imports.[1] In the case of the EU with 15 members and the expanded EU with 25 members, the ocean transportation costs amounted to 16.7 percent in both cases. For Belgium, France, and Germany, the costs were 14.5 percent, 18.6 percent, and 10.4 percent respectively.

Wholesale and Retail Margins

Figure V-1 shows the margins between U.S. wholesale and retail prices annually during 1999-2004. The nominal wholesale prices are the f.o.b. refined beet sugar prices for the Midwest market, and the retail prices are for refined sugar in the entire United States. The data show that the retail price is typically about twice as high as the wholesale price.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Euro and the real values of the exchange rates of the currencies of Belgium and Germany appreciated relative to the U.S. dollar during January-March 1999 through January-March 2005 (figure V-2).[2]

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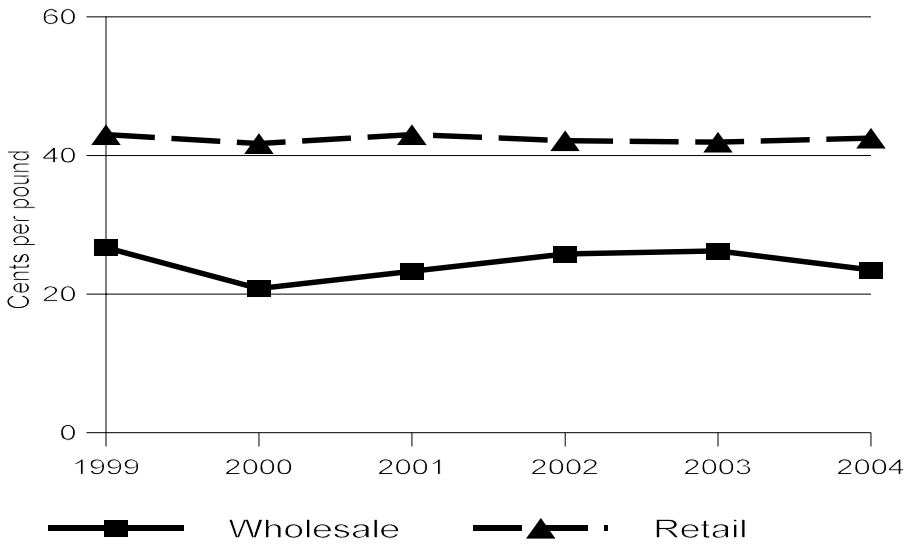
[1] The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2002 and then dividing by the customs value.

[2] All three countries, Belgium, France, and Germany, converted from their individual national currencies to the euro beginning in January 1999. Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States in relation to Belgium and Germany. A real exchange rate could not be

(continued...)

Figure V-1
Sugar: Wholesale and retail prices in the United States, annually 1999-2004



Source: Compiled from USDA Economic Research Service statistics.

PRICING PRACTICES

Prices are most commonly determined under contract negotiations for multiple shipments, although transaction-by-transaction negotiations for spot sales were also reported. In some cases price lists are used as a starting basis for negotiations. Questionnaire responses indicate that processors/refiners commonly quote prices on either an f.o.b. or delivered basis.

Volume discount policies vary among processors/refiners. Some firms reported that they offer discounts to meet competitive offers, with larger customers typically receiving larger discounts. However, other firms do not offer volume discounts. Most of the processors/refiners reported that they provide discounts of 2 percent on sales for payments within 10 or 15 days.

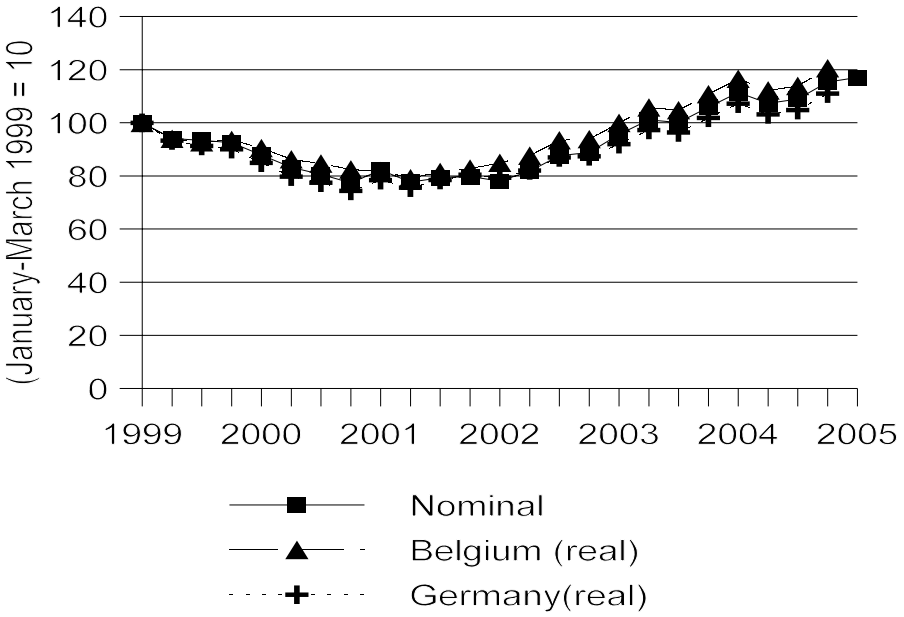
The majority of sugar sales by processors/refiners are on a contract basis with short-term contracts accounting for the majority of sales. Short-term contracts are typically for periods of one year, although in some cases they are for shorter periods. Long-term contracts are typically for periods of two years. In all contracts, prices and quantities are fixed during the contract period. None of the contracts contain meet-or-release provisions.

PRICE DATA

The Commission asked U.S. processors/refiners and importers of sugar to provide quarterly data for the quantities and values of selected products that were shipped to unrelated customers in the United

[2] (...continued)
calculated for France because a consistent producer price index for France was not available for the period being examined.

Figure V-2
Exchange rates: Nominal exchange rate of the EU currency (euro) and real exchange rate for Belgium and Germany in relation to the U.S. dollar, by quarters, January-March 1999 through January-March 2005



Source: Compiled from IMF International Financial Statistics, June 2005 and various earlier issues.

States on a quarterly basis during January 1999 through March 2005. The products for which data were requested are as follows:

***Product 1*.--Granulated sugar produced from sugar cane or beets, bulk, in rail cars.**

***Product 2*.--Granulated sugar produced from sugar cane or beets, in large volume packages (i.e., 50 pounds or greater).**

***Product 3*.--Granulated sugar produced from sugar cane or beets, in consumer-sized packages (i.e., 25 pounds or less).**

Eleven U.S. processors/refiners provided varying amounts of quarterly price data on the requested products. These data accounted for approximately 86 percent of U.S. shipments of sugar by processors/refiners in 2004. No importers of sugar from the subject countries provided any useable price data. In addition to collecting price data from U.S. producers, the staff also collected published data from the USDA's Economic Research Service in order to compare U.S. wholesale sugar prices with world prices.

Price Trends

Weighted-average prices for all three products are shown on a quarterly basis for the period January-March 1999 through January-March 2005 in table V-1 and figure V-3. The prices of all three products tended to be lower in 2000 and 2001 than in other years, although there was no clear-cut trend for the entire period.

USDA wholesale prices for U.S.-produced refined sugar and the London metal exchange spot price, as an indicator of the world price, are presented in table V-2 and figure V-4 for January-March 1999 through April-June 2005.[3] [4] Additional U.S and world price data presented on an annual basis for 1980 through 2004 and tier II tariffs in effect for the period 1991-2004 are presented in appendix F. The quarterly data show that the world price has consistently been far lower than the U.S. price. The data for both series show quarterly variations, with no evident long term trend. While the U.S. price has been relatively stable throughout 2004 and the first quarter of 2005, it increased from 23.4 cents per pound in the first quarter of 2005 to 24.8 cents per pound in the second quarter of 2005.[5] The world price has been increasing throughout 2004 and the first two quarters of 2005. The increase is due principally to several important factors including a drought in Thailand in 2004 and 2005 that reduced export supplies. Thailand is a major exporter. Also, imports by India increased during 2004 and 2005 because of a drought. India is the world's leading consumer of sugar and a major producer. In addition, there was a decline in production in Cuba in 2004, another major exporter. Finally, there has recently been strong demand for sugar in Asia, particularly Indonesia.[6]

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[3] This table and chart have been updated from the prehearing report to include USDA data for the second quarter of 2005.

[4] Data from the Foreign Agricultural Service of the USDA indicate that about two-thirds of all world sugar exports in 2004 (quantity, raw basis) were traded at the "world price." This includes exports from Brazil, the EU-15, Thailand, and Cuba which together account for the majority of all world exports. However, some of their exports were at higher prices due to TRQs in the United States and the EU and to certain trade policies in Japan.

[5] The significant decline in the U.S. price during 2000 was strongly influenced by a large increase in sugar production in fiscal year 2000 as compared to the previous fiscal year (see Economic Research Service/USDA Agricultural Outlook/September 2000 "Weak Prices Test U.S. Sugar Policy").

[6] This analysis of the factors affecting prices is based upon information from a variety of sources including LMC International, F.O. Licht, and the Foreign Agricultural Service of the USDA.

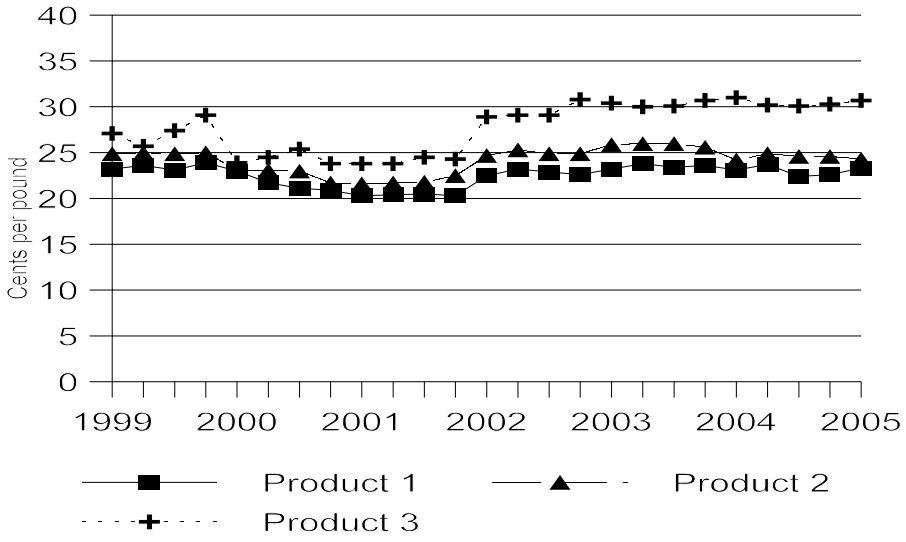
Table V-1
Sugar: Weighted-average f.o.b. prices and quantities of domestic products 1, 2, and 3, by quarters, January 1999-March 2005

Period	Product 1 [1]		Product 2 [2]		Product 3 [3]	
	Price (*cents per pound*)	Quantity (*short tons*)	Price (*cents per pound*)	Quantity (*short tons*)	Price (*cents per pound*)	Quantity (*short tons*)
1999:						
Jan.-Mar.	23.2	476,007	24.9	314,368	27.1	124,693
Apr.-June	23.6	505,407	25.0	343,568	25.7	147,913
July-Sept.	23.1	549,472	24.9	368,026	27.4	193,822
Oct.-Dec.	23.9	427,105	25.0	307,412	29.1	213,897
2000:						
Jan.-Mar.	23.0	615,179	23.1	349,370	23.9	448,078
Apr.-June	21.7	656,237	23.1	373,926	24.5	406,084
July-Sept.	21.1	885,802	23.0	387,352	25.4	449,136
Oct.-Dec.	20.9	649,453	21.7	379,573	23.8	565,983
2001:						
Jan.-Mar.	20.3	716,575	21.6	390,184	23.8	420,445
Apr.-June	20.4	770,035	21.7	404,919	23.8	377,242
July-Sept.	20.5	741,985	21.8	414,802	24.5	459,675
Oct.-Dec.	20.3	623,959	22.5	358,434	24.3	550,320
2002:						
Jan.-Mar.	22.5	660,727	24.7	425,935	28.9	419,244
Apr.-June	23.2	837,316	25.3	600,935	29.1	527,626
July-Sept.	22.9	953,644	24.9	608,055	29.1	584,164
Oct.-Dec.	22.6	878,313	24.9	557,818	30.8	646,752
2003:						
Jan.-Mar.	23.2	831,458	25.9	580,776	30.4	549,300
Apr.-June	23.8	848,532	26.0	595,965	30.0	532,119
July-Sept.	23.4	966,675	26.0	612,014	30.1	598,724
Oct.-Dec.	23.6	834,625	25.6	592,198	30.7	670,853
2004:						
Jan.-Mar.	23.1	857,831	24.2	641,877	31.0	485,423
Apr.-June	23.7	871,820	24.9	631,956	30.2	510,366
July-Sept.	22.4	901,491	24.6	639,028	30.1	561,247
Oct.-Dec.	22.6	868,303	24.6	596,095	30.3	660,855
2005:						
Jan.-Mar.	23.3	938,101	24.3	483,955	30.7	464,151

[1] Granulated sugar produced from sugar cane or beets, bulk, in rail cars.
[2] Granulated sugar produced from sugar cane or beets, in large volume packages (i.e., 50 pounds or greater).
[3] Granulated sugar produced from sugar cane or beets, in consumer-sized packages (i.e., 25 pounds or less).

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

Figure V-3
Sugar: Weighted-average U.S. prices for products 1, 2, and 3, by quarters, January-March 1999 through January-March 2005



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

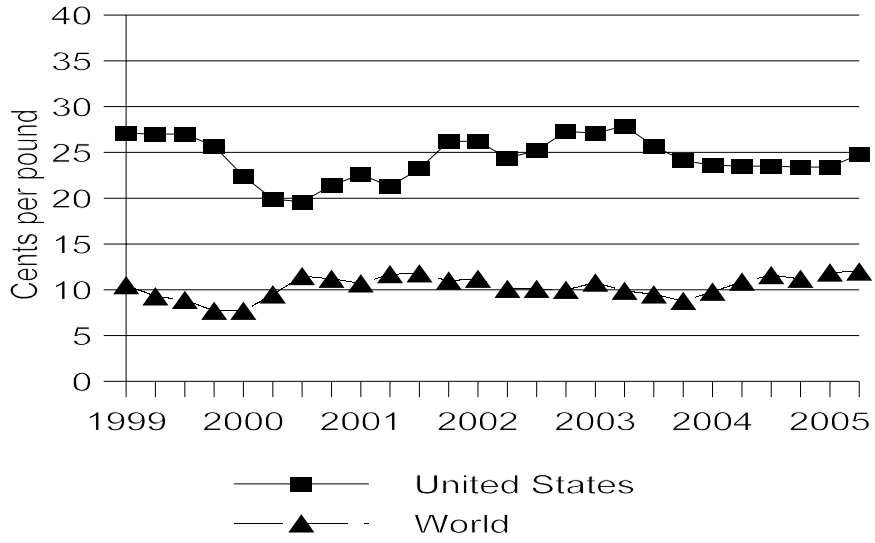
Table V-2
Sugar: U.S. and world prices of sugar, by quarters, January 1999-June 2005

Period	U.S. price[1]	World price[2]
	Cents per pound	
1999:		
Jan.-Mar.	27.1	10.5
Apr.-June	27.0	9.3
July-Sept.	27.0	8.9
Oct.-Dec.	25.7	7.7
2000:		
Jan.-Mar.	22.4	7.7
Apr.-June	19.9	9.5
July-Sept.	19.6	11.5
Oct.-Dec.	21.4	11.2
2001:		
Jan.-Mar.	22.6	10.7
Apr.-June	21.3	11.7
July-Sept.	23.2	11.8
Oct.-Dec.	26.2	11.0
2002:		
Jan.-Mar.	26.2	11.2
Apr.-June	24.4	10.1
July-Sept.	25.2	10.1
Oct.-Dec.	27.3	10.0
2003:		
Jan.-Mar.	27.1	10.8
Apr.-June	27.9	9.9
July-Sept.	25.7	9.5
Oct.-Dec.	24.1	8.8
2004:		
Jan.-Mar.	23.6	9.8
Apr.-June	23.5	10.9
July-Sept.	23.5	11.6
Oct.-Dec.	23.4	11.2
2005:		
Jan.-Mar.	23.4	11.9
Apr.-June	24.8	12.0

[1] U.S. wholesale refined beet sugar price in Midwest markets.
[2] Contract No. 5, London daily price for refined sugar, f.o.b. Europe, spot.

Source: Compiled from USDA Economic Research Service statistics.

Figure V-4
Sugar: Wholesale U.S. prices and world prices, by quarters, January-March 1999 through April-June



Source: Compiled from USDA Economic Research Service statistics.

APPENDIX A

FEDERAL REGISTER NOTICES AND COMMISSION'S ADEQUACY STATEMENT

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–7 (Second Review), Investigation Nos. AA1921–198–200 (Second Review)]

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

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on sugar from the European Union and the antidumping findings on sugar from Belgium, France, and Germany.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union and/or revocation of the antidumping findings on sugar from Belgium, France, and Germany would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is October 21, 2004. Comments on the adequacy of responses may be filed with the Commission by November 15, 2004. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: September 1, 2004.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 04–5–097, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On July 31, 1978, the Department of the Treasury issued a countervailing duty order on imports of sugar from the European Union (43 FR 33237). There was no Commission determination of material injury by reason of subsidized imports prior to issuance of the order because imports from the European Union were not eligible for an injury test unless they were duty free. However, pursuant to section 104 of the Trade Agreements Act of 1979, the Commission made a determination in May 1982 that the domestic industry producing sugar would be threatened with material injury by reason of subsidized imports of sugar from the European Union if the countervailing duty order covering such imports were to be revoked. On June 13, 1979, following affirmative injury determinations by the Commission, the Department of the Treasury issued antidumping findings on imports of sugar from Belgium, France, and Germany (44 FR 33878). Following five-year reviews by Commerce and the Commission, effective October 28, 1999, Commerce issued a continuation of the countervailing duty order on imports of sugar from the European Union and the antidumping findings on imports of sugar from Belgium, France, and Germany (64 FR 58033). The Commission is now conducting second reviews to determine whether revocation of the order and findings would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts

available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Belgium, the European Union, France, and Germany.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination concerning sugar from the European Union, the Commission found the Domestic Like Product to consist of both beet and cane sugar, whether raw or refined. The Commission did not make a Domestic Like Product determination per se in its original determinations concerning sugar from Belgium, France, and Germany. In its full five-year review determinations, the Commission found the Domestic Like Product to consist of ''raw and refined sugar, whether cane or beet.''

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination concerning sugar from the European Union, the Commission defined the Domestic Industry as all growers, processors, and refiners of beet and cane sugar. In its original determinations concerning sugar from Belgium, France, and Germany, the Commission defined the Domestic Industry as producers of sugar cane and raw cane sugar in the Southeastern region of the United States. In its full five-year review determinations, the Commission found one national industry and defined the Domestic Industry to include sugar cane and sugar beet growers, as well as cane millers, cane refiners, and beet processors. Please use the latter definition of Domestic Industry in responding to item (4) in the section of this notice entitled ''Information To Be Provided In Response To This Notice Of Institution.''

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 21, 2004. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is November 15, 2004. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a

complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty order and/or revocation of the antidumping findings on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1998.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country after 1998, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each Subject Country, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry. Please indicate which of the definitions with which you agree. If you disagree with all of the above definitions of Domestic Like Product and Domestic Industry, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 24, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–19939 Filed 8–31–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 104–TAA–7 and AA1921–198–200 (Second Review)]

Sugar From Belgium, European Union, France, and Germany

AGENCY: International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the countervailing duty order on sugar from the European Union and the antidumping findings on sugar from Belgium, France, and Germany.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the countervailing duty order on sugar from the European Union and the antidumping findings on sugar from Belgium, France, and Germany would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* December 6, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202) 205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On December 6, 2004, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act.[1] The Commission found that the domestic interested party group response to its notice of institution (69 FR 53466, September 1, 2004) was adequate and that the respondent interested party group response to its notice of institution was inadequate. The Commission also found that other circumstances warranted conducting full reviews. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: December 13, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–27650 Filed 12–16–04; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioners Marcia E. Miller and Jennifer A. Hillman dissented, voting to conduct expedited reviews on the basis that the domestic interested party group response was adequate but the respondent interested party group response was inadequate.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–7 (Second Review); Investigations Nos. AA1921–198–200 (Second Review)]

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

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty order on sugar from the European Union, and the antidumping duty orders on sugar from Belgium, France, and Germany.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union and the antidumping duty orders on sugar from Belgium, France, and Germany would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* January 19, 2005.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On December 6, 2004, the Commission determined that circumstances existed to warrant proceeding with full reviews pursuant to section 751(c)(5) of the Act (69 FR 75568, December 17, 2004). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report—The prehearing staff report in the reviews will be placed in the nonpublic record on June 8, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 28, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 21, 2005. A nonparty who has testimony that may aid the Commission's deliberations may

request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations may be required to attend a prehearing conference to be held, if necessary, at 9:30 a.m. on June 23, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 17, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 7, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 8, 2005. On August 5, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 9, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 27, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–1953 Filed 2–1–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–077, A–427–078, A–428–082]

Sugar From Belgium, France, and Germany; Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Findings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 1, 2004, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty findings on sugar from Belgium, France, and Germany pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a Notice of Intent to Participate, adequate substantive responses filed on behalf of domestic interested parties, and inadequate responses from respondent interested parties, the Department conducted expedited (120-day) sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty findings would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Reviews* section of this notice.

DATES: *Effective Date:* April 5, 2005.

FOR FURTHER INFORMATION: Hilary E. Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4340.

SUPPLEMENTARY INFORMATION

Background

On September 1, 2004, the Department published the notice of initiation of the sunset reviews of the antidumping duty findings on sugar from Belgium, France, and Germany.[1] On September 13, 2004, the Department received a Notice of Intent to Participate from the American Sugar Cane League, the Sugar Cane Growers Cooperative of Florida, the Florida Sugar Cane League, the Hawaii Sugar Growers, the Rio Grande Valley Sugar Growers, the U.S. Beet Sugar Association, and the American Sugarbeet Growers Association (collectively ''domestic interested parties'') within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under section 771(9)(E) of the Act, as a trade association, a majority of whose members produce the like product in the United States. On October 1, 2004, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct expedited reviews of these findings.

Scope of the Findings

Imports covered by these findings are shipments of sugar, both raw and refined, with the exception of specialty sugars, from Belgium, France and Germany. The finding on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) Composed of 85 percent sucrose and 15 percent lactose; (2) have a polished, matte appearance, and more uniformly porous than domestic sugar cubes; (3) produced in two sizes of 2 mm and 3.8 mm in diameter. *See Sugar from France; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Finding,* 61 FR 40609 (August 5, 1996). The merchandise subject to these findings is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.1000, 1701.99.1090, 1701.99.5000, 1701.99.5090, 1702.90.05, 1702.90.10, 1702.90.20, 2106.90.42, 2106.90.44, and 2106.90.46. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the findings is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated March 30, 2005, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the findings were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/sunset/index.html,* under the heading ''April 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews ≤We determine that revocation of the antidumping duty findings on sugar from Belgium, France, and Germany would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted average margin (percent)
All Belgian Manufacturers/Exporters	103
All French Manufacturers/Exporters	102
All German Manufacturers/Exporters	121

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 30, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–1537 Filed 4–4–05; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 69 FR 53408 (September 1, 2004) (''Initiation Notice'').

DEPARTMENT OF COMMERCE

International Trade Administration

[C–408–046]

Sugar from the European Community; Final Results of the Full Sunset Review of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 1, 2004, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty (''CVD'') finding on sugar from the European Community (''the Community'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Review*, 69 FR 53408 (September 1, 2004). On the basis of a notice of intent to participate filed on behalf of the domestic interested parties and adequate substantive comments filed on behalf of the domestic interested parties and the Community, the Department conducted a full sunset review of the countervailing duty finding on sugar from the Community. As a result of this sunset review, the Department finds that revocation of the CVD finding would likely lead to continuation or recurrence of countervailable subsidies at the level indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: August 4, 2005.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1767.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2004, the Department initiated a sunset review of the CVD finding on sugar from the Community. *See Notice of Initiation of Five-year (''Sunset'') Review*, 69 FR 53408 (September 1, 2004). On March 25, 2005, the Department published the preliminary results of the full sunset review of the CVD finding on sugar from the Community. *See Sugar From the European Community; Preliminary Results of Full Sunset Review of the Countervailing Duty Finding*, 70 FR 15293 (March 25, 2005) (''*Preliminary Sunset Results*''), and the accompanying Issues and Decision Memorandum for the Five-year (''Sunset'') Review of the Countervailing Duty Finding on Sugar from the European Community; Preliminary Results, dated March 25, 2005 (''Preliminary Results Decision Memorandum'').[1] In our *Preliminary Sunset Results*, we found that benefits from the export restitution payment program would likely continue or recur were the order revoked.

On May 9, 2005, the Department received a case brief from the United States Beet Sugar Association, the American Sugar Refiners' Association, the American Sugar Cane League, the Sugar Cane Growers Cooperative of Florida, the Florida Sugar Cane League, Rio Grande Valley Sugar Growers, Inc., Hawaii Sugar Farmers, and the American Sugarbeet Growers Association, (collectively ''domestic interested parties''). The Department did not receive a case or rebuttal brief from the Community.

Scope of the Finding

Imports covered by this countervailing duty finding are shipments of sugar from the European Community. During the investigation,

[1] For a full discussion of the history of this finding prior to the *Preliminary Sunset Results*, *see* the March 25, 2005, Preliminary Results Decision Memorandum.

such merchandise was classifiable under item numbers 155.2025, 155.2045, 155.3000 and 183.05 of the Tariff Schedules of the United States Annotated (''TSUSA''). This merchandise is currently classifiable under item numbers 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.1090, 1701.99.5090, 1702.90.05, 1702.90.10, 1702.90.20, 2106.90.42, 2106.90.44, 2106.90.46 of the Harmonized Tariff Schedule (''HTS''). Specialty sugars are exempt from the scope of this finding. On December 7, 1987, two interested parties, the United States Beet Sugar Association and the United States Cane Sugar Refiners' Association, requested a scope review of blends of sugar and dextrose, a corn–derived sweetner, containing at least 65 percent sugar. The merchandise is currently imported under HTS item number 1701.99.00. On June 21, 1990, the Department issued a final scope clarification memorandum, which determined that such blends are within the scope of the finding, and that imports of such blends from the Community are subject to the corresponding countervailing duty.

Analysis of Comments Received:

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated July 28, 2005, which is hereby adopted by this notice. The issues discussed in the accompanying Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendation in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

The Department finds that revocation of the countervailing duty finding on sugar from the Community would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy likely to prevail if the finding were revoked is 21.73 cents per pound.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 28, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–4189 Filed 8–3–05; 8:45 am]

BILLING CODE 3510–DS–S

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Sugar from the European Union; Sugar from Belgium, France, and Germany,
Inv. Nos. 104-TAA-7, AA1921-198-200 (Second Review)

On December 6, 2004, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5).[1]

With regard to each of the reviews, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received a single response filed collectively by the U.S. Beet Sugar Association, the American Sugarbeet Growers Association, the American Cane Sugar Refiners Association, the American Sugar Cane League, the Sugar Cane Growers Cooperative of Florida, the Florida Sugar Cane League, the Rio Grande Valley Sugar Growers, Inc., and Hawaiian sugar producers. The Commission found this response adequate with respect to each of these individual entities, which encompass trade associations, a majority of whose members produce the domestic like product, cooperatives of growers producing the domestic like product, and individual producers of the domestic like product. Because the Commission received an adequate response from interested parties accounting for a substantial percentage of U.S. production, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response for each review was inadequate.

The record indicates that since issuance of the original countervailing duty order and antidumping findings, there have been changes in the conditions of competition pertaining to the domestic industry, particularly with respect to changes in the tariff rate quota and domestic marketing allocation systems. There have been more recent changes in conditions of competition pertaining to the subject imports, given recent expansions of the European Union. Conducting a full review will allow the Commission to seek information concerning these changes in conditions of competition. It will also enable the Commission to obtain the Department of Commerce's likely subsidy rates in the review concerning the order on sugar from the European Union.

Therefore, the Commission did not exercise its discretion to conduct an expedited review, but instead determined to conduct a full review. A record of the Commission's votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

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[1] Commissioner Miller and Commissioner Hillman voted to conduct expedited reviews, based on the inadequate respondent interested party group responses. They join only the second and third paragraphs of this statement.

APPENDIX B

LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Sugar from the European Union Sugar from Belgium, France, and Germany
Inv. Nos.:	104-TAA-7 (Second Review) AA1921-198-200 (Second Review)
Date and Time:	June 28, 2005 - 9:30 a.m.

Sessions were held in connection with these reviews in the Main Hearing Room, 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

In Opposition to Revocation of Order and Findings (**Juliana M. Cofrancesco**, Howrey Simon Arnold & White LLP)

In Opposition to the Revocation of the Countervailing Duty Order and Antidumping Findings:

Howrey Simon Arnold & White LLP
Washington, D.C.

and

Arent Fox LLP
Washington, D.C.
on behalf of

U.S. Beet Sugar Association
American Sugarbeet Growers Association
American Cane Sugar Refiners' Association
American Sugar Cane League
Sugar Cane Growers Cooperative of Florida
Florida Sugar Cane League
Hawaii Sugar Industry
Rio Grande Valley Sugar Growers, Inc.

In Opposition to the Revocation of the Countervailing Duty Order and Antidumping Findings (continued):

Steve Bearden, Cane Farmer, Santa Rosa, TX; *and* President, Rio Grande Valley Sugar Growers Association

Margaret Blamberg, Executive Director, American Cane Sugar Refiners' Association

John Doxsie, President, United Sugars Corporation

Ralph Burton, President and CEO, Amalgamated Sugar Company LLC

Terry Jones, Beet Grower, Powell, WY; President, American Sugar Beet Growers Association; *and* Vice President, Big Horn Basin Beet Growers Association

Jessie Breaux, Cane Farmer, Franklin, LA; *and* Vice President, American Cane Sugar League

Jack Roney, Director, Economics & Policy Analysis, American Sugar Alliance

Susan Manning, Vice Chairman, The CapAnalysis Group

Juliana M. Cofrancesco)
John F. Bruce)
) – OF COUNSEL
Matthew Clark)
Keith Marino)

CLOSING REMARKS:

In Opposition to Revocation of Order and Findings (**Matthew Clark**, Arent Fox LLP)

APPENDIX C

SUMMARY DATA

Table C-1

Sugar: Summary data concerning the U.S. market, crop years 1999-2004, January-March 2004, and January-March 2005

(Quantity=1,000 short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; percent changes=percent, except where noted)

	Reported data								Period changes						
							January-March								Jan.-Mar.
Item	CY 1999	CY 2000	CY 2001	CY 2002	CY 2003	CY 2004	2004	2005	1999-2004	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-05
U.S. consumption quantity:															
Amount	11,512	11,789	11,674	11,000	11,387	11,261	2,706	2,667	-2.2	2.4	-1.0	-5.8	3.5	-1.1	-1.4
Processors'/refiners' share (1)	84.1	87.3	87.1	87.1	86.0	85.3	87.4	84.6	1.1	3.2	-0.2	-0.1	-1.1	-0.7	-2.8
Importers' share (1):															
Belgium	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
France	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Germany	(2)	(2)	(2)	(2)	(2)	(2)	0.0	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Other EU-15	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-15)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
EU-10 (NMS)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	0.0	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-25)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
All other sources	15.9	12.7	12.8	12.9	14.0	14.7	12.6	15.4	-1.2	-3.2	0.2	0.1	1.1	0.7	2.8
Total imports	15.9	12.7	12.9	12.9	14.0	14.7	12.6	15.4	-1.1	-3.2	0.2	0.1	1.1	0.7	2.8
U.S. consumption value:															
Amount	5,616,781	5,431,515	5,215,321	5,364,421	5,636,546	5,401,589	1,294,434	1,253,450	-3.8	-3.3	-4.0	2.9	5.1	-4.2	-3.2
Processors'/refiners' share (1)	88.8	90.4	89.2	89.7	89.0	89.0	90.6	87.4	0.2	1.5	-1.2	0.5	-0.7	0.0	-3.2
Importers' share (1):															
Belgium	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
France	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Germany	(2)	(2)	(2)	(2)	(2)	(2)	0.0	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Other EU-15	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-15)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
EU-10 (NMS)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	0.0	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Subtotal (EU-25)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
All other sources	11.2	9.6	10.8	10.3	11.0	10.9	9.4	12.6	-0.2	-1.5	1.2	-0.5	0.7	-0.1	3.2
Total imports	11.2	9.6	10.8	10.3	11.0	11.0	9.4	12.6	-0.2	-1.5	1.2	-0.5	0.7	-0.0	3.2
U.S. imports from:															
Belgium:															
Quantity	0.10	0.46	0.50	0.11	0.13	0.19	0.02	0.01	83.8	351.6	9.4	-77.6	12.9	47.3	-56.8
Value	157	401	434	180	257	321	30	27	104.8	155.8	8.4	-58.4	42.2	24.9	-7.4
Unit value	$1,534	$869	$861	$1,601	$2,016	$1,710	$1,299	$2,783	11.4	-43.4	-0.9	85.9	25.9	-15.2	114.3
Ending inventory quantity	0	0	0	0	0	(4)	(4)	(4)	(5)	(5)	(5)	(5)	(5)	-76.7	-100.0
France:															
Quantity	0.02	0.03	0.06	0.20	0.16	0.48	0.10	0.02	2,321.6	59.6	102.1	209.1	-18.0	196.3	-82.7
Value	53	75	143	285	309	1,058	258	48	1,914.4	42.6	90.2	99.7	8.5	242.7	-81.3
Unit value	$2,645	$2,364	$2,224	$1,437	$1,902	$2,200	$2,523	$2,731	-16.8	-10.6	-5.9	-35.4	32.3	15.7	8.3
Ending inventory quantity	0	0	0	0	0	0	0	0	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Germany:															
Quantity	0.02	0.01	0.02	0.01	0.01	0.03	0	0.01	39.8	-59.9	90.2	-46.9	31.4	162.7	(5)
Value	23	11	22	10	18	53	0	18	135.7	-50.7	98.9	-53.4	76.8	191.8	(5)
Unit value	$992	$1,221	$1,277	$1,120	$1,506	$1,673	(5)	$2,955	68.7	23.0	4.6	-12.3	34.5	11.1	(5)
Ending inventory quantity	0	0	0	0	0	0	0	0	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Other EU-15:															
Quantity	0.16	0.26	0.19	0.18	0.05	0.16	0.02	0.01	2.0	62.4	-27.5	-4.5	-71.1	213.7	-47.6
Value	218	299	225	179	72	230	24	13	5.8	37.4	-24.7	-20.5	-59.6	218.5	-45.6
Unit value	$1,378	$1,166	$1,210	$1,008	$1,408	$1,429	$1,261	$1,311	3.7	-15.4	3.8	-16.7	39.6	1.5	3.9
Ending inventory quantity	0	0	0	0	0	0	0	0	(5)	(5)	(5)	(5)	(5)	(5)	(5)
EU-15 (subtotal):															
Quantity	0.30	0.76	0.77	0.50	0.35	0.86	0.14	0.04	184.6	150.5	1.7	-35.5	-29.0	144.0	-69.9
Value	450	786	824	654	656	1,663	311	106	269.8	74.8	4.9	-20.6	0.2	153.4	-65.9
Unit value	$1,485	$1,036	$1,068	$1,315	$1,858	$1,930	$2,164	$2,450	30.0	-30.2	3.1	23.2	41.2	3.9	13.2
Ending inventory quantity	0	0	0	0	(4)	(4)	(4)	0	(5)	(5)	(5)	(5)	(5)	-76.7	-100.0
EU-10 (NMS):															
Quantity	(5)	(5)	0.05	0.01	0.02	0.04	0.03	0	11,937.3	80.2	8,861.6	-76.7	86.1	72.2	-100.0
Value	14	22	43	14	18	38	32	0	172.0	54.6	99.5	-68.3	29.9	114.1	-100.0
Unit value	$40,998	$35,173	$783	$1,068	$745	$926	$996	(2)	-97.7	-14.2	-97.8	36.3	-30.2	24.3	(5)
Ending inventory quantity	0	0	0	0	0	0	0	0	(5)	(5)	(5)	(5)	(5)	(5)	(5)
EU-25 (subtotal):															
Quantity	0.30	0.76	0.83	0.51	0.38	0.90	0.18	0.04	197.8	150.4	8.9	-38.3	-26.1	139.4	-75.4
Value	464	807	867	668	674	1,701	343	106	266.9	74.2	7.4	-22.9	0.9	152.4	-69.1
Unit value	$1,529	$1,064	$1,049	$1,309	$1,788	$1,884	$1,949	$2,450	23.2	-30.4	-1.4	24.8	36.5	5.4	25.7
Ending inventory quantity	0	0	0	0	(4)	(4)	(4)	0	(5)	(5)	(5)	(5)	(5)	-76.7	-100.0
All other sources:															
Quantity	1,828	1,495	1,500	1,423	1,598	1,658	341	411	-9.3	-18.2	0.3	-5.1	12.3	3.8	20.6
Value	627,752	523,288	563,743	554,511	620,691	591,342	121,142	157,359	-5.8	-16.6	7.7	-1.6	11.9	-4.7	29.9
Unit value	$343	$350	$376	$390	$388	$357	$356	$383	3.8	1.9	7.4	3.7	-0.3	-8.2	7.7
Ending inventory quantity	25	10	10	35	20	22	28	23	-9.7	-58.6	-5.5	261.7	-41.1	8.5	-17.1
All sources:															
Quantity	1,828	1,495	1,500	1,423	1,598	1,659	341	411	-9.2	-18.2	0.3	-5.1	12.3	3.8	20.5
Value	628,216	524,096	564,610	555,180	621,365	593,042	121,486	157,465	-5.6	-16.6	7.7	-1.7	11.9	-4.6	29.6
Unit value	$344	$351	$376	$390	$389	$357	$357	$383	4.0	2.0	7.4	3.6	-0.3	-8.0	7.5
Ending inventory quantity	25	10	10	35	20	22	28	23	-9.7	-58.6	-5.5	261.7	-41.1	8.5	-17.1

Table continued on next page.

Table C-1--Continued

Sugar: Summary data concerning the U.S. market, crop years 1999-2004, January-March 2004, and January-March 2005

(Quantity=1,000 short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; percent changes=percent, except where noted)

	Reported data								Period changes						
							January-March								Jan.-Mar.
Item	CY 1999	CY 2000	CY 2001	CY 2002	CY 2003	CY 2004	2004	2005	1999-2004	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-05
U.S. processors'/refiners':															
Average capacity quantity	11,796	11,400	11,280	10,487	10,721	11,004	3,345	3,241	-6.7	-3.4	-1.0	-7.0	2.2	2.6	-3.1
Production quantity (6)	9,436	10,006	9,768	9,685	9,819	9,789	2,751	2,596	3.7	6.0	-2.4	-0.9	1.4	-0.3	-5.6
Capacity utilization (1)	80.0	87.8	86.6	92.3	91.6	89.0	82.2	80.1	9.0	7.8	-1.2	5.8	-0.8	-2.6	-2.1
U.S. shipments:															
Quantity	9,684	10,294	10,173	9,577	9,789	9,602	2,365	2,257	-0.8	6.3	-1.2	-5.9	2.2	-1.9	-4.6
Value	4,988,565	4,907,420	4,650,711	4,809,242	5,015,181	4,808,547	1,172,948	1,095,985	-3.6	-1.6	-5.2	3.4	4.3	-4.1	-6.6
Unit value	$515.12	$476.75	$457.14	$502.19	$512.34	$500.77	$495.98	$485.70	-2.8	-7.4	-4.1	9.9	2.0	-2.3	-2.1
Export shipments:															
Quantity	176	181	203	189	168	231	57	57	31.3	2.6	12.3	-6.9	-10.9	37.5	0.2
Value	53,275	49,455	61,734	52,411	49,655	71,921	17,277	15,635	35.0	-7.2	24.8	-15.1	-5.3	44.8	-9.5
Unit value	$302.78	$273.90	$304.57	$277.82	$295.50	$311.29	$301.73	$272.43	2.8	-9.5	11.2	-8.8	6.4	5.3	-9.7
Ending inventory quantity	1,153	1,129	957	1,134	1,137	1,114	2,314	2,187	-3.4	-2.1	-15.2	18.5	0.2	-2.0	-5.5
Inventories/total shipments (1)	11.7	10.8	9.2	11.6	11.4	11.3	23.9	23.6	-0.4	-0.9	-1.6	2.4	-0.2	-0.1	-0.3
Production workers	11,105	11,160	10,598	11,232	9,378	8,786	8,795	8,491	-20.9	0.5	-5.0	6.0	-16.5	-6.3	-3.5
Hours worked (1,000s)	23,850	24,289	22,492	21,196	19,956	18,875	4,992	4,721	-20.9	1.8	-7.4	-5.8	-5.8	-5.4	-5.4
Wages paid ($1,000s)	382,993	398,997	379,933	373,217	369,392	359,732	92,547	87,379	-6.1	4.2	-4.8	-1.8	-1.0	-2.6	-5.6
Hourly wages	$16.06	$16.43	$16.89	$17.61	$18.51	$19.06	$18.54	$18.51	18.7	2.3	2.8	4.2	5.1	3.0	-0.2
Productivity (tons/hour)	0.40	0.41	0.43	0.46	0.49	0.52	0.57	0.57	31.1	4.1	5.4	5.2	7.7	5.4	0.2
Unit labor costs	$40.59	$39.88	$38.89	$38.54	$37.62	$36.75	$32.70	$32.56	-9.5	-1.8	-2.5	-0.9	-2.4	-2.3	-0.4
Net sales:															
Quantity	9,485	9,889	9,726	9,139	9,225	9,278	2,187	2,214	-2.2	4.3	-1.6	-6.0	0.9	0.6	1.2
Value	5,036,664	4,903,692	4,573,893	4,661,534	4,933,099	4,854,185	1,148,909	1,124,873	-3.6	-2.6	-6.7	1.9	5.8	-1.6	-2.1
Unit value	$531.01	$495.87	$470.27	$510.07	$534.75	$523.19	$525.34	$508.07	-1.5	-6.6	-5.2	8.5	4.8	-2.2	-3.3
Cost of goods sold (COGS)	4,267,472	4,214,262	4,031,753	4,045,618	4,282,616	4,103,791	967,430	913,189	-3.8	-1.2	-4.3	0.3	5.9	-4.2	-5.6
Gross profit or (loss)	769,192	689,430	542,140	615,916	650,483	750,394	181,479	211,684	-2.4	-10.4	-21.4	13.6	5.6	15.4	16.6
SG&A expenses	468,028	419,598	418,973	412,999	445,981	448,622	118,086	117,552	-4.1	-10.3	-0.1	-1.4	8.0	0.6	-0.5
Operating income or (loss)	301,164	269,832	123,167	202,917	204,502	301,772	63,393	94,132	0.2	-10.4	-54.4	64.7	0.8	47.6	48.5
Capital expenditures	172,212	141,984	87,740	74,816	109,151	104,995	18,568	18,671	-39.0	-17.6	-38.2	-14.7	45.9	-3.8	0.6
Unit COGS	$449.92	$426.16	$414.53	$442.68	$464.24	$442.31	$442.35	$412.46	-1.7	-5.3	-2.7	6.8	4.9	-4.7	-6.8
Unit SG&A expenses	$49.34	$42.43	$43.08	$45.19	$48.34	$48.35	$53.99	$53.09	-2.0	-14.0	1.5	4.9	7.0	0.0	-1.7
Unit operating income or (loss)	$31.75	$27.29	$12.66	$22.20	$22.17	$32.53	$28.99	$42.52	2.4	-14.1	-53.6	75.3	-0.2	46.7	46.7
COGS/sales (1)	84.7	85.9	88.1	86.8	86.8	84.5	84.2	81.2	-0.2	1.2	2.2	-1.4	0.0	-2.3	-3.0
Operating income or (loss)/ sales (1)	6.0	5.5	2.7	4.4	4.1	6.2	5.5	8.4	0.2	-0.5	-2.8	1.7	-0.2	2.1	2.9

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Less than 0.05 percent.

(3) Less than 0.05 percentage points absolute.

(4) Less than 5 short tons.

(5) Not applicable.

(6) As noted in Part I, production data reported in response to Commission questionnaires were higher than official USDA production data for the same periods. The trend of production over the period examined is, however, broadly similar in both sets of data.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a crop year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

APPENDIX D

RESPONSES ON SIGNIFICANCE OF THE ORDER AND FINDINGS/ANTICIPATED CHANGES

U.S. GROWERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION

U.S. sugar beet and sugarcane growers were asked whether they would anticipate any changes in the character of their operations or organization relating to the production of sugar beets or sugar cane in the future if the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-5 in the Growers' Questionnaire). Their responses were as follows:

***

"If the countervailing duty order or the antidumping duty orders were revoked, *** would likely need to reduce its production of sugar cane and would suffer losses in revenue due to the flooding of the U.S. market with subsidized sugar cane from Europe. This would also result in layoffs and the possible closing of locations."

***

"Yes."

***

"Revocation would lead to significantly less income for my farm which would seriously challenge my ability to continue raising beets."

***

"Lower price would put me out of business."

***

"Without the orders in place, I would have less income for my farm, which would hinder my ability to raise sugar beets."

***

"Surplus sugar will hurt all sugar production (allotments) resulting in lower prices and lost income to sugar growers and producers. The effect on farming communities will be felt by many businesses."

***

"Without protections we foresee continuing reduction in prices, revenue and production acreage. No influence directly by the new member states."

***

"Have sold 10 percent of beet stock in anticipation of poor trade agreements. Hard to individually compete against other countries when our own country won't stick up for us."

***

"Sugar would be sold over allocations at a greatly reduced price. This would increase the amount of sugar into the U.S. thus lowering the allotments and creating a greater problem."

***

"This group would dump sugar into our market at lower prices. Doing this would put me out of business."

***

"If market shrinks due to increase of sugar imports, then we will be asked to reduce production. Production increases help us offset flat prices."

***

"Yes."

***

"Without antidumping/countervailing duties, we will face a reduced price for sugar and our income will turn to losses."

***

"If subsidized sugar was allowed to be dumped on the market, we likely would be forced to plant other crops due to economic conditions."

***

"Out of business."

***

"More sugar coming into the U.S. will lower my allotment."

****

"Reductions in allotments, price of sugar, equipment, labor. Any addition of new members to the EU is a threat."

***

"As soon as more sugar is allowed in we will be forced to reduce planted acres more and more. We have substantial investment in equipments, land, human resources and plants that will be affected even more adversely."

***

"We would assume that uncontrolled dumping of sugar on the world market would have a detrimental effect on sugar prices, U.S. sugar policy and sugar issues in a new Farm Bill."

***

"If countervailing duties were revoked, our U.S. market would be severely impacted, production plans would change dramatically due to a loss of revenue. The addition of the 10 new member states increases this risk."

***

"If our market shrinks further due to increased sugar imports then we will be asked to reduce our production. Increased production helps us offset flat and reduced prices, not decreased production."

***

"Revocation of the orders would lead to significantly less income for my farm operations which in turn would seriously challenge my ability to successfully continue to raise sugar beets. I cannot supply business plans or supporting documentation to you but these are my beliefs."

***

"It would put us and our company out of the production of sugar."

***

"If duties were revoked, there would be less in farm income."

***

"Any new or extra imports of sugar could have a significant impact on domestic prices. With cost of production outpacing income this could be a detriment to our operation."

***

"Lower prices for refined sugar, translating to lower raw beet prices with significantly reduced net income to our farm. It may put us out of business."

***

"If the price of sugar was to fall farther we would be forced to exit the sugar producing industry."

***

"No."

***

"The effect would be more sugar coming into the U.S., thereby reducing our marketing allotments, which would reduce our chances of making a profit and staying in business."

***

"Sugar beets contribute about 75 percent of the income to our farm, so if prices were to drop it would severely affect the profitability of our farm."

***

"Revoking the duty on EU sugar would help destroy the U.S. sugar industry."

***

"Timing, nature and significance of the impact will depend on the terms of their inclusion in the EU sugar program. The new members who are beet producers are expected to increase the amount of dumped sugar."

***

"With fuel, fertilizer and other inputs going up, the profitability will be a challenge. Lower sugar prices would possibly force us out of the beets, which would only take a couple of years."

***

"If duties are lifted, EU sugar can and will find its way into our already oversupplied market. As sugar cane is the only viable crop in our area we would be forced out of agriculture."

***

"Only if sugar prices go any lower. What about all these free trade agreements and imports that kills local or U.S. producers?"

***

"***."

***

"Sugar would be sold over allocation at a greatly reduced price. This would increase the amount of sugar into the U.S., thus lowering the allotments more & creating a greater problem."

***

"If the orders mentioned above are revoked, our sugar prices would drop significantly and the character of our business would certainly change."

***

"Duty free sugar coming into this country will cause sugar prices to drop, eventually putting sugar farmers out of business."

***

"More sugar would come in and would lower marketing allotments."

***

"The U.S. market is oversupplied currently, and market prices are at loan levels. Any increased supply will drive prices lower, resulting in our exit from the sugar business."

***

"If our market shrinks further due to increased sugar imports then we will be asked to reduce our production. Increased production helps us offset and reduce prices, not decreased production."

***

"No."

***

"Yes."

***

"If duties were to be revoked we will not be able to stay in business."

***

"Dumping sugar from EU to U.S. would adversely effect our farming operation."

***

"Revoking the countervailing duty would allow additional sugar to enter the U.S. domestic market causing losses to our domestic industry, and ultimately resulting in quite a few farms going out of business. The remaining would take large losses and depressed economy."

***

"If the duty would be revoked, the market would be under great pressure, could make it uneconomical to raise beets."

***

"In an already oversupplied US market, this could only open the flood gates for EU sugar. This would lead to industry shrinkage and farm downsizing, increasing cost by increasing inefficiencies."

***

"To revoke these two items would create a surplus of sugar which in turn depress prices. We are at the peak of productivity so a price reduction would put us out of business."

***

"If our markets get smaller due to increased sugar imports we will be forced to reduce our production. We already face high fuel costs, high fertilizer and irrigation costs, drought, hail, diseases in crops, etc. We don't need a major blow by that kind of policy change."

***

"More sugar in U.S. and lower marketing allotments and increased production costs causes a reduction in profitability."

***

"Sugar beets are my main crop, lower sugar prices would make my farm not profitable - destroy it."

***

"Price of sugar would drop if more sugar was allowed to be imported, causing us to either cut back acres, thereby cutting income, causing hardship or get out of sugar production, or farming altogether."

***

"If more sugar is allowed to be imported, then our marketing allotment would be decreased."

***

"*** already has "blocked stocks" so any additional sugar imports will only further erode sugar prices. Farmers are receiving prices for their sugar beets which barely are covering the cost of production."

***

"No."

***

"Yes it would greatly change our operation on reduced sugar prices against the rising cost of production."

***

"I would anticipate getting out of the business because it would flood the market and lower prices even more. We cannot afford any price reduction."

***

"It would most likely put us out of the sugar business."

***

"Depending on demand for domestic sugar would have to reduce size of operation to stay profitable. This would make *** non-profitable."

***

"If the countervailing duty order on sugar from the EU or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked then that would mean more sugar coming into the U.S. and our marketing allotments would be lower and our price would be reduced. With the addition of ten new members the EU extends their ability to import even greater amounts of sugar."

***

"We would be out of business if any of the orders or the findings were lifted."

***

"Reduced income."

***

"Would anticipate a reduction in planted acres, and probably more closing of production facilities if an already oversupplied market is burdened with more imports."

***

"Any additional sugar which would be allowed in would lower sugar prices below our cost of production and force us out of business."

***

"More sugar entering the US by any means would immediately affect marketing allotments, thus affecting my allotment, causing me to reduce production and possibly be out of business. 10 new member states gives the EU more production of sugar and more ability to market that sugar."

***

"I would expect to be out of business if either the order or the findings were lifted. I am an efficient producer, but the EU's persistent overproduction, influenced by heavy subsidies, is distorting the world price. This is having a detrimental effect on sugar production profitability worldwide."

***

"No."

***

"Lower sugar prices could cause us to go out of business."

***

"It is very simple. If the domestic sugar market cannot provide a stable price above the cost of production, our acreage will decline."

***

"We assume such action would cause more sugar to be imported, which would lead to oversupply, which would call for *** to reduce acres which would eventually trickle down to reduce acres to U.S."

***

"Without these "safety nets", cheaper sugar could flood US markets, lowering the price. We need to be profitable."

***

"If either countervailing duty order or antidumping findings were revoked, it would severely impact the U.S. market. Additional sugar on the U.S. market would result in significant loss to our operation."

***

"Unless prices stabilize we will have to sell more land and grow less sugar."

***

"Yes."

***

"Every time the U.S. allows more sugar in, the domestic industry must reduce output in order to balance the market. If CAFTA is ratified it will displace about 37,000 acres of domestic production. If the sugar from Mexico/NAFTA is imported it will be an additional loss of domestic production."

***

"Depending on economic conditions, we probably would consider exiting from this business within 3 to 5 years."

***

"If this was revoked additional sugar would enter the U.S., further reducing our domestic industry. Our operation has already been reduced severely, any further could easily wipe us out."

***

"More sugar in the U.S. would put us out of growing beet."

***

"No."

***

"***."

***

"Our firm is very dependent on income from sugar beets. Any reduction in acreage or price would have a very negative effect."

***

"If the countervailing duty order {on sugar} from the European Union or the antidumping findings on sugar from Belgium, France and Germany were to be revoked, additional sugar would enter the US market. Since only domestically produced sugar is included in the Overall Allotment Quantity, domestic sugar production would be decreased. A reduction in domestic sugar production is only achieved by reducing the number of acres of sugar beets grown. I would directly be affected by this reduction. The reduction to ***'s allotment would be passed along in direct proportion to the preferred shareholders' ability to grow beets. And if the company's allotment is reduced too much, the company can not afford to run the processing plants economically, and the company would be forced to close their door. If I can't grow sugar beets, I will not be farming, sugar beets are a very essential crop in my rotation."

***

"I would anticipate an almost immediate reduction in the price we receive for our sugar. This would require a curtailment in our sugar production, and would adversely affect farm profitability. It could require the sale of land and machinery."

***

"Yes. This would have a major negative impact on our farm and definitely cause many changes because of the loss of revenue. On our farm we rely on the sugar beet crop for some profit. Some of our other crops are grown for rotational purposes only, because they usually do not generate a profit. If the antidumping and countervailing duty orders were not in place, imports of dumped or subsidized sugar from the EU would have devastating effects on our farm and the whole U.S. sugar industry, by lowering the price that we would receive. Just a decrease of one dollar per hundred weight in selling price will reduce our per ton payment by three dollars per ton! In 1999 and 2000 when the domestic sugar market was oversupplied, prices per ton were negatively impacted significantly. Only because of extremely high tonnage per acre was there any profit. Today 94 percent of the sugar beet processing is cooperatively owned and this is true on our farm. Anything that negatively impacts our cooperative processor will in the end hurt our farm and our region, the Red River valley. It has been calculated that the sugar industry has a three billion dollar per year impact on our economy in this region. It is critical we maintain this industry and keep the antidumping orders and countervailing duty order in place."

***

"I fear sugar from the EU lowers my U.S. prices, causing a decrease in the value of my cooperative stock, lowering my assets for my firm."

***

"We have to regulate our own production in order to offset the highs and lows in prices in order to stay in business, as any other product."

***

"May cause severe economic damages."

***

"If revoked, more sugar would enter the U.S., causing marketing allotments to be lower for our processors and thus for us. It would be direct pound reduction. Expansion of the EU causes Europe's ability to export to be even greater."

***

"The EU would flood the markets with their highly subsidized sugar. Due to the depressed market, we would reduce beet acres and rely more on small grains."

***

"This would lead to the entry of heavily subsidized EU sugar into the already oversupplied U.S. market, leading to further contraction within the industry and resulting in a corresponding contraction of our farming operations. A decrease in volume results in inefficiencies and loss of profitability. The addition of 10 new member states only bolsters this reasoning because additional sugar would be thrown on top of the EU's existing excess."

***

"This is a fourth generation family farm. Lower sugar prices would financially kill this farm."

***

"Revoking the countervailing order would be effected by allowing more sugar into the U.S. causing lowering of marketing allowance to sugar mills, thereby having to reduce cane acreage."

***

"Allocation would be imposed, causing 20% reduction in crop, further putting viability of farm in jeopardy."

***

"Revocation of the orders would lead to less income for our operation and could seriously challenge our ability to continue raising beets. This is my belief but I have no documentation."

***

"Evaluation of price received for sugar beets is direct effect on markets, and analysis is necessary to ensure profit for farm."

***

"As I indicated in my answer to II-4, the growers for *** are already dealing with "blocked stocks" by reducing our planted acreage. If more sugar enters the US market, the domestic growers will have to reduce supply even more because we are the only ones under the OAQ. Imported sugar and imported products containing sugar are not."

***

"Sugar price and allotments are greatly affected by any and all changes to the sugar rules."

***

"No."

***

"Contraction."

***

"We would not be able to grow beets and make a profit."

***

"Our ability to remain profitable is driven by volume. We are a volume commodity business. Any reduction in acreage due to imports adversely affects our fixed costs and results in lower or negative returns."

***

"If sugar prices drop below current rates, we will raise less acres, decreasing the need for machinery and labor hired."

***

"We are under allotments now and sugar prices are near cost of production. Any more sugar coming into this country will lower sugar prices, forcing us out of business!!!"

***

"To revoke the antidumping findings would have an impact on markets to cause low market prices and make it harder to maintain the U.S. sugar industry."

***

"Our profitability has gone down slowly the last few years because of stagnant beet prices and growing costs. If more sugar is allowed to be dumped in the U.S. our prices will go down even more and it could cause us to quit being productive."

***

"We cannot take a cut in acreage because the price is so low and cost of production so high."

***

"*** major concern is if the duties were revoked, that we would see an influx of heavily subsidized sugar. In turn, *** would find it difficult or impossible to stay competitive in the U.S. sugar markets."

***

"The additional sugar brought on the market by the revocation of these items would mean that the cooperative, ***, would reduce the acres that we could plant because their allotment of sugar to sell would be reduced by the government. We would therefore plant more corn, in an already depressed market creating an even more depressed market where many farmers are already relying on government payments to survive."

***

"If these are revoked and by such revocations the price of domestic sugar is depressed then we will not be able to profitably grow sugar beets and will have to cease production. Not influenced by 10 new members."

***

"Allowing more sugar would further deplete acres and revenue. We have been cut back 15 percent on production eroding our revenue stream with a loss of some jobs."

***

"No."

***

"If antidumping laws were revoked, U.S. would be flooded with excess sugar, low prices would severely impact profitability to U.S. producers. Loss of sugar beet industry would be inevitable."

U.S. MILLERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION

U.S. sugar cane millers were asked whether they would anticipate any changes in the character of their operations or organization relating to the milling of sugar cane in the future if the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-5 in the Millers' Questionnaire). Their responses were as follows:

***

"Lower prices for our product."

***

"Increased imports of EU refined sugar will lead eventually to lessened demand for the processing and refining of U.S. source raw sugar. Accession of the 10 new states will accentuate this trend."

***

"No."

***

"The resulting lower sugar price from increased supply may drive ***, as well as many of our growers, out of the industry."

***

"Increase imports of EU refined sugar will lead eventually to lessened demand for the processing and refining of U.S. source raw sugar. Accession of the 10 new states will accentuate this trend."

***

"Opening up the U.S. market to EU sugar will increase supply, lead to lower sugar prices and reduced revenue and eventually put us out of business. The EU-NMS do not affect this response."

***

"Allowing the smallest amount of sugar into the United States from any country would have a devastating affect on the price. If the price goes down any you will see farmers and mills going out of business in Louisiana. My response has not been influenced by the accession to the EU of 10 new member states."

***

"No."

***

"***."

***

"***."

***

"Allocation limitations on already distressed climate could impact continued viability of our firm."

***

"Influx of subsidized sugar could dramatically lower domestic sugar price below cost of production and force us out of business."

***

"We would probably close one of our *** mills."

***

"In the future, increased capacity and production will not be significant enough to affect market price reductions in raw sugar. Also, we continue to realize increased cost annually in goods and services necessary to run a factory."

***

"No."

***

"Cause severe economic."

***

"Continuance of products coming into US with sugar would reduce demand for domestic {sugar} and either production would have to be reduced or price would decrease, making profitability unprobable."

***

"No."

***

"In time, increased capacity and production would not be significant enough to offset market price reduction in raw sugar. Also, we continue to realize increases in cost annually in goods and services necessary to run a factory."

***

"This would lead to the entry of heavily subsidized EU sugar into the already oversupplied U.S. market leading to further contraction within the industry and resulting in a corresponding contraction of our operations. A decrease in volume results in inefficiencies and loss of profitability. The addition of 10 new member states only bolsters this reasoning because additional sugar would be thrown on top of the EU's existing excess."

***

"Contraction due to negative impact on U.S. market. Amount of contraction depends on depth and length of impact."

U.S. PROCESSORS' COMMENTS REGARDING THE EFFECTS OF THE ORDER AND FINDINGS, AND THE LIKELY EFFECTS OF REVOCATION

U.S. processors' were asked whether their firm would anticipate any changes in the character of your operations or organization relating to the production of sugar in the future if the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-5 in the Processors'/Refiners' Questionnaire). Their responses were as follows:

***

"Revocation of the countervailing duty order and/or the antidumping findings would cause our company to rethink our long-term viability as a domestic sugar producer. Revocation of such order and findings has been determined to cause increases in the importation and availability of sugar for the U.S. market. Increased supply could only mean lower access for domestically produced sugar, as the access to the market for domestic producers is controlled by the USDA. If imports are increased, such access by domestic producers has to be reduced, which causes financial harm."

***

"*** anticipates changes in the character of our operation or organization if the countervailing duty order on sugar from the European Union, or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked."

***

"The EU is a large exporter of white sugar. This sugar is dumped on to the world market in volumes in excess of 4 million metric tons annually. This sugar directly competes with *** sales, but for the existing CVD orders. If these orders are lifted, we expect that the U.S. quota on refined sugar entries will also come under intense political {*sic*} to be lifted. This would ruin our domestic sugar business. Accession of additional EU members will only worsen this scenario."

***

"Assuming this would lead to an increase in the supply of refined sugar in the U.S., we would expect to lose market share."

***

"Increased imports of EU refined sugar will lead eventually to lessened demand for the processing and refining of U.S. source sugar. Accession of the 10 new member states will accentuate this trend."

***

"If subsidized EU exports were allowed into the U.S., prices would be depressed, margins reduced, and the likelihood of more plant closures increased. The EU is a significant exporter of subsidized sugar. Sugar is generally fungible and one origin may be easily substituted for another in the marketplace. Exposure of the domestic market to imports from the EU member nations would cause this substitution, depress U.S. prices, compress profit margins, and would harm *** and the rest of the U.S. sugar industry. As contracts with beet sugar growers and some contracts with cane sugar mills set prices for raw sugar and sugar beets based upon the price of white sugar in the marketplace, these imports would also depress grower prices. The continuing accession of member states compounds this problem by potentially encouraging more production and, consequently, more subsidized exports."

***

"Any additional sugar on the world market would severely destroy our U.S. market, causing job loses and a failure of family farms."

***

"Revocation of the orders would lead to significantly less income for the Company and therefore to its shareholder farm operations (see questions I-3 (a) & (b)). That would, in turn, seriously challenge the Company's shareholders' ability to successfully continue to raise sugar beets. Revocation of the orders would most certainly mean that the EU countries (Belgium, France, and Germany) would be provided the means to immediately exporting {*sic*} their subsidized sugar to the U.S. This would mean almost an immediate oversupply of sugar to the U.S. marketplace, causing a steep drop in sugar prices. Since profit margins in the sugar business are already small, any kind of real drop in sugar price will cause sugar processors and growers to lose money in their operations. The Company has no business plans or supporting documentation for this, but strongly believes this to be true. This response has not been influence by the accession to the EU of additional new members. However, if these new members would be influenced/stimulated by the EU's current sugar regime to produce more sugar than what they normally would have produced as non-members of the EU, then the response by the Company would be most assuredly influenced."

***

"Any change that would allow for more sugar imports into the U.S. would have serious detrimental impacts to ***. Additional sugar imports will reduce the selling price for sugar and significantly reduce the profitability of growing sugar beets."

***

"If subsidized EU exports were allowed into the U.S., prices would be depressed, margins reduced, and the likelihood of more plant closures increased. The EU is a significant exporter of subsidized sugar. Sugar is generally fungible and one origin may be easily substituted for another in the marketplace. Exposure of the domestic market to imports from the EU member nations would cause this substitution, depress U.S. prices, compress profit margins, and would harm *** and the rest of the U.S. sugar industry. As contracts with beet sugar growers and some contracts with cane sugar mills set prices for raw sugar and sugar beets based upon the price of white sugar in the marketplace, these imports would also depress grower prices. The continuing accession of member states compounds this problem by potentially encouraging more production and, consequently, more subsidized exports."

***

"We assume downward pressure on all domestic prices."

***

"With the addition of subsidized sugar on the market, we would expect extreme pressure on pricing, resulting in forfeiture to the Government, resulting in lack of raw product supply, resulting in factory closures. Response has not been influenced by the accession to the EU of 10 new member states."

***

"We may not be allowed recovery (from drought) time for our production."

U.S. processors were asked to describe the significance of the existing countervailing duty order on sugar from the European Union, and the existing antidumping findings on sugar from Belgium, France, and Germany, in terms of their effect on their firms' production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values (Question II-17 in the Processors'/Refiners' Questionnaire). Their responses were as follows:

***

"The countervailing duty order and antidumping findings are significant to *** in the following respects. If the order were reversed and the findings dismissed, it is our opinion that ***'s production would have to be reduced as the results would surely be increased imports from the EU member nations. Our U.S. shipments would decrease, as there would be less market share for domestic producers. Our inventories would increase. As our U.S. shipments went up {*sic*}, our inventories would have to increase or our production would have to decrease. Overall, our purchases of supplies and materials would decrease as well as our employment. As an example, ***. Cost of production would increase, as there is less volume to spread over, as a large part of our production costs are fixed costs. Cash flow would suffer as production would occur over a shorter period, but sales would continue throughout the year. Capital expenditures would surely cease as profits fell. R & D expenditures would decrease and asset values would deteriorate, not only at the production level, but on-farm assets would decrease as well."

***

See response to question II-18, below.

***

"***, but the size of subsidized EU exports of white sugar would overwhelm our markets in short order. We have just *** due to declining U.S. markets. The only thing that could keep this from happening would be secession of EU exports as a result of CAP reform, or a new WTO agreement prohibiting subsidized EU exports."

***

No response.

***

"See II-18, below."

***

"Because of the countervailing duties, very little sugar enters the U.S. from the EU, other than some specialty products. Should substantial imports be allowed, the subsidized exports would depress U.S. pricing. This would compress margins and have an adverse effect on all participants in the U.S. sugar industry. EU refined sugar in fungible with domestically produced supplies and could be effectively substituted by sugar users. This would lower demand for U.S. production, cause more plant closures, job losses, and great economic harm."

***

"With U.S. marketing allocations in place, the more we import, the less we can produce domestically. Sugar production is a volume business. If we can't produce the volume, we can't remain competitive."

***

"Having the countervailing duty orders in place has meant that the domestic sugar marketplace has been provided with a stable supply of affordable sugar. Without the duties in place, the domestic sugar market would become oversupplied very quickly with sugar from the Europe. This, in turn, would eliminate the allotment provisions under the current Farm Program, thereby releasing even more sugar onto the domestic marketplace (so called "blocked sugar"). Much lower prices to an industry that works on thin profit margins means an immediate reaction by the processors and growers to tighten its belt. This is done by reducing non-operating costs, such as capital expenditures, research and development, employee head count, etc. Currently, the Company, through increased shareholder growing efficiencies, carefully planning and taking appropriate risks, has been able to provide its shareholders with a reasonable return for the sugar beets it delivers. This, in turn, means that capital expenditures and research and development, have been adequately funded."

***

"The European Union and its members enjoy a regulated price that has historically exceeded the U.S. domestic price by nearly 40 percent, and which has supported a subsidized export market which would have reduced our ability to produce and sell sugar in our market. The U.S. is, and has always been, a net importer."

***

"Because of the countervailing duties, very little sugar enters the U.S. from the EU, other than some specialty products. Should substantial imports be allowed, the subsidized exports would depress U.S. pricing. This would compress margins and have an adverse effect on all participants in the U.S. sugar industry. EU refined sugar in fungible with domestically produced supplies and could be effectively substituted by sugar users. This would lower demand for U.S. production, cause more plant closures, job losses, and great economic harm."

***

“We have been unable to increase production to the current levels, thus increasing revenues and lowering unit costs.”

***

“No significance.”

***

“***.”

U.S. processors were asked whether they would anticipate any changes in their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of sugar if the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-18 in the Processors'/Refiners' Questionnaire). Their responses were as follows:

***

"The following changes could be expected if the countervailing duty order and antidumping findings were revoked--

Production: If the order were reversed and the findings dismissed, it is our opinion that ***'s production would have to be reduced as the results would surely be increased imports from the EU member nations.

U.S. shipments: Our U.S. shipments would decrease, as there would be less market share for domestic producers.

Inventories: Our inventories would increase. As our U.S. shipments went up {*sic*}, our inventories would have to increase or our production would have to decrease.

Purchases: Overall, our purchases of supplies and materials would decrease, as well as our employment. As an example, ***.

Cost of production: Cost of production would increase, as there is less volume to spread the costs over, as a large part of our production costs are fixed costs.

Cash flow: Cash flow would suffer as production would occur over a shorter period, but sales would continue throughout the year.

Capital expenditures: Capital expenditures would surely cease as profits fell.

R & D expenditures: R & D expenditures would surely decrease.

Asset values: Asset values would deteriorate not only at the production level, but on-farm assets would decrease as well."

***

"For decades, the European Union has maintained a complex system of support for its sugar industry, resulting in overproduction, the dumping of excess production onto the world market, and therefore the continuation of a world dump sugar market. The only major change in today's world dump market is that Brazil, through its system of ethanol support, has overtaken the EU as the largest exporter and distorter of the world sugar market. The EU regime is unchanged from 1999 when the previous sunset review took place, and it is even largely unchanged from 1978 and 1979, when the original antidumping and countervailing duty orders were put in place. The same distortions that existed then exist now. Therefore, at a minimum, the same justifications for creating and maintaining the antidumping and countervailing duty orders exist today. However, *** believes the situation today is vastly more serious, and requires that the International Trade Commission to not only reaffirm its 1999 decision to continue and increase duties against EU sugar exports, it will likely need to consider increasing duties yet again. Sugar beet growers face more direct threats to their profitability today from dumped sugar, whether from the EU or other sources, than at any time in recent history.

The accession to the EU of ten new member nations only increases our firm belief that the antidumping and countervailing duty orders must be maintained or increased. Several of the new member nations are significant sugar producers. The placement of new sugar producing capacity under the elaborate EU sugar regime could alter EU sugar market dynamics and force further disruptions and distortions in the world market."

***

"If the CVD orders are revoked, we would expect the U.S. refined sugar quota to be expanded as a near immediate consequence. This would severely impact our business and force curtailment of refining capacity. The CVD orders should not be lifted until EU-subsidized exports cease as a result of either CAP reform or a WTO agreement on agriculture. Accession of new member states wouldn't really matter because the EU already exports (dumps) enough sugar to cause the result above."

***

No response.

***

"Increased imports of EU refined sugar will lead eventually to lessened demand for the refining of US source raw sugar. Accession of the 10 new member states will accentuate this trend."

***

"Should the antidumping findings against the EU be dropped, we would anticipate increased imports of subsidized EU sugar into the U.S. That would depress prices and take demand from U.S. suppliers. This would increase the amount of excess capacity in the industry, and would eventually lead to more U.S. sugar plant closures (both cane and beet). The loss of capital, employment (both direct and indirect) would cause great economic injury to the U.S. sugar industry. The antidumping findings are essential to the industry."

***

"It would have an immediate impact on our market, causing lower prices and financial hardships for farmers and processors."

***

"The current U.S. marketplace for sugar is close to being in balance between supply and demand - actually somewhat oversupplied currently. Any additional imported sugar to the U.S. will tip the balance to excess supply, and thereby reducing prices immediately. Due to thin profit margins in the domestic sugar business, the Company would be forced to reduce payments for sugar beets to its shareholder/growers rather than being able to absorb lower sugar prices. This will be done only after the Company takes measures to try to reduce costs further, such as employee lay-offs, and reducing non-operating costs substantially. Since the current U.S. Farm Program assigns marketing allotments and allocations to the sugar beet and sugar cane industries, additional sugar output to try to offset the lower prices through dilution of fixed costs is not an option for domestic sugar processors or its producers - and in fact may only exacerbate the problem of over-supply. With lower beet payments to shareholder/growers, there is the real possibility that some shareholders will decide not to grow sugar beets. The Company may well be faced with the problem of not having enough growers to provide for an economical volume of sugar beets to run its plant.

The issue of lower prices starts a potential downward spiral of lower beet payments to shareholder/growers, less efficient plant operations, lower sugar production, even lower payments, etc., etc. With a less efficient plant to operate, capital investment comes to a standstill, cash flow is reduced, research and development stops, and asset values plummet. The domestic sugar business currently is a high-risk business, providing for the possibility of both economic and functional obsolescence to its owners. Even now, with the price of sugar being too low, shareholder profits have been reduced substantially and capital expenditures are being authorized only if there is a short, substantial payback. If low sugar prices become the norm, rather than the exception, then asset values, both at the Company level and at the shareholder/grower level, will decrease substantially as well. This response has not been influenced by the accession to the EU of additional new members. However, if these new members would be influenced/stimulated by the EU's current sugar regime to produce more sugar than what they normally had produced as non-members of the EU, then the response by the Company would be most assuredly influenced.

***

"Any change that would allow for more sugar imports would have serious detrimental impacts to ***. Additional sugar imports would reduce the net selling price of sugar and significantly reduce the profitability of growing sugar beets."

***

"Should the antidumping findings against the EU be dropped, we would anticipate increased imports of subsidized EU sugar into the U.S. That would depress prices and take demand from U.S. suppliers. This would increase the amount of excess capacity in the industry, and would eventually lead to more U.S. sugar plant closures (both cane and beet). The loss of capital and employment (both direct and indirect) would cause great economic injury to the U.S. sugar industry. The antidumping findings are essential to the industry."

***

"We would likely have to contract our operations further if price were further eroded."

***

"Same as II-5."

***

"Increases in imported sugar would result in lower pricing/demand for sugar produced at ***."

U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDER AND FINDINGS, AND THE LIKELY EFFECTS OF REVOCATION

U.S. importers were asked whether they would anticipate any changes in the character of their operations or organization relating to the importation of sugar in the future if the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-4 in the Importers' Questionnaire). Their response were as follows:

***

No response.

***

"No."

***

"No."

***

"No."

***

"I would start importing again, and would gain back business I have lost."

***

"Increased imports of EU refined sugar will lead eventually to lessened demand for the processing and refining of US source raw sugar. Accession of the 10 new states will accentuate this trend."

***

"No."

***

"***."

***

"Should the imports destroy our ability to produce and distribute sugar of our own manufacture, we would likely look to use our marketing expertise to market imported sugar."

***

"No."

***

"No."

U.S. importers were asked to describe the significance of the existing countervailing duty order covering imports of sugar from the European Union, and the antidumping findings covering imports of sugar from Belgium, France, and Germany, in terms of their effects on their firms' imports, U.S. shipments of imports, and inventories (Question II-8 in the Importers' Questionnaire). Their responses were as follows:

***

No response.

***

"Does not definably impact as *** buys sugar refined and shipped from producers in the U.S."

***

"Existing orders have no effect."

***

"None."

***

"Our prices had to increase to the point we could no longer sell the product. We lost many customers and valuable business."

***

"See II-9 below."

***

"No significance. *** has never imported sugar from the EU or related countries."

***

"The existing countervailing duty order covering imports of sugar form the European Union and the antidumping findings covering imports from Belgium, France, and Germany have had no effect on *** imports, shipments, or inventories."

***

"The current duties result in very little sugar from the EU being imported, so it is difficult to do a comparison of before and after in this circumstance. The downward pressure on price that EU sugar could exert on the U.S. market should the duties be lifted would reduce margins, destroy profitability, and lead to great economic harm to ***."

***

"N/A. Our imports are subject to U.S. TRQs and are not affected by EU exports to the U.S."

***

"N/A."

U.S. importers were asked whether they would anticipate any changes in their imports, U.S. shipments of imports, or inventories of sugar in the future if the countervailing duty on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany were to be revoked (Question II-9 in the Importers' Questionnaire). Their responses were as follows:

***

No response.

***

"No."

***

"No."

***

"None."

***

"We would start importing again and gain back our customers and much needed business."

***

"See ***.

***

"No."

***

"No."

***

"We would expect imports to grow from time to time as the EU exported to the U.S. ***."

***

"Not known."

***

"No."

U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION

U.S. purchasers were asked what they thought the likely effects would be of any revocation of the countervailing duty order on sugar from the European Union or the antidumping findings on sugar from Belgium, France, and Germany, with respect to (1) the activities of their firms, and (2) the entire U.S. market (Question III-35 in the Purchasers' Questionnaire). Their responses were as follows:

***

"(1) N/A; (2) N/A."

***

"(1) None; (2) None."

***

"(1) None planned; (2) Cheaper prices, elimination of U.S. price supports."

***

"(1) Doubt that this change will have any impact on our company. We buy currently from U.S. marketers, not from the world market; (2) May impact the beet growers on cane growers, but only to the extent that they would have needed to supplement what they do not already produce. Because of marketing allocation the growers and producers domestically can only produce so much per year. Impact minimal at best."

***

"(1) Our firm has imported no sugar from Belgium, France, nor Germany in the past, nor would envision that we would ever doing so in the future due to logistics cost and/or U.S. Dollar/Euro exchange rates; (2) Unknown impact."

***

"(1) None; (2) None."

***

"(1) We will have to look for outside sources to purchase sugar (outside of the U.S.); (2) After the current Farm Bill expires, the U.S. market would decline and the world market would increase as in the early 1980's."

***

"(1) *** has not imported sugar from the EU into the U.S. (2) The revocation of the countervailing duty order or antidumping findings should not have a significant impact on the US sugar industry if current Farm Bill remains intact."

***

"(1) No opinion; (2) No opinion."

***

"(1) None; (2) None."

APPENDIX E

ADDITIONAL U.S. PROCESSOR/REFINER FINANCIAL DATA

Table E-1
Sugar: Results of operations of U.S. processors/refiners, including only incomplete data for *, fiscal years 1999-2004, January-March 2004, and January-March 2005**

Item	Fiscal year						January-March	
	1999	2000	2001	2002	2003	2004	2004	2005
	Quantity (*1,000 short tons*)							
Net sales	9,485	9,889	9,726	9,139	9,225	9,278	2,187	2,214
	Value (*$1,000*)							
Net sales	5,036,664	4,903,692	4,573,893	4,661,534	4,933,099	4,854,185	1,148,909	1,124,873
COGS	3,905,438	3,871,147	3,700,017	3,679,976	3,949,687	3,657,607	819,658	772,502
Gross profit	1,131,226	1,032,545	873,876	981,558	983,412	1,196,578	329,251	352,371
SG&A expenses	468,028	419,598	418,973	412,999	445,981	448,622	118,086	117,552
Operating income	663,198	612,947	454,903	568,559	537,431	747,956	211,165	234,819
Interest expense	72,253	79,894	78,311	58,331	58,876	56,788	14,373	15,327
Other expense	108,059	131,061	94,176	46,778	68,401	29,085	(8,232)	(100)
CDSOA funds received	0	0	0	0	0	0	0	0
Other income items	20,588	32,961	31,597	77,126	63,720	92,184	14,652	8,006
Net income	503,474	434,953	314,013	540,576	473,874	754,267	219,676	227,598
Depreciation	136,083	143,904	148,838	121,933	135,612	132,560	33,163	36,235
Cash flow	639,557	578,857	462,851	662,509	609,486	886,827	252,839	263,833
	Value (*per short ton*)							
Net sales	$531	$496	$470	$510	$535	$523	$525	$508
COGS	412	391	380	403	428	394	375	349
Gross profit	119	104	90	107	107	129	151	159
SG&A expenses	49	42	43	45	48	48	54	53
Operating income	70	62	47	62	58	81	97	106
	Ratio to net sales (*percent*)							
COGS	77.5	78.9	80.9	78.9	80.1	75.4	71.3	68.7
Gross profit	22.5	21.1	19.1	21.1	19.9	24.7	28.7	31.3
SG&A expenses	9.3	8.6	9.2	8.9	9.0	9.2	10.3	10.5
Operating income[1]	13.2	12.5	9.9	12.2	10.9	15.4	18.4	20.9
Net income[1]	10.0	8.9	6.9	11.6	9.6	15.5	19.1	20.2
	Number of firms reporting							
Operating losses	1	2	6	5	3	2	2	2
Data	12	12	12	13	13	13	13	13

[1] As noted in the text, *** did not report raw material costs. As a result, their cost of goods sold are understated and their operating and net incomes are overstated. If the data of these *** companies were excluded, the ratios of operating income to net sales decrease substantially and the financial results are presented in table E-2.

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

Table E-2
Sugar: Results of operations of U.S. processors/refiners, excluding *, fiscal years 1999-2004, January-March 2004, and January-March 2005**

* * * * * * *

The summary financial data of all 14 responding processors/refiners are repeated in table E-3A, and the results of the 12 remaining processors/refiners' sugar sales (excluding the two processors) are presented in table E-3B. However, the financial data in table E-3B undoubtedly understate operating and net income because two *** processors were excluded. Estimating raw material costs of *** based on the payments to cooperative members for sugarbeets will overstate the raw material costs, which would result in understated operating and net income since these payments to members (distributions of net proceeds) included income (profit) generated from sugar operations as well as sugarbeets payments to its members. Therefore, staff estimated the materials cost of the two processors who did not report raw materials cost, based on the growers' financial experience (*see* table III-14) (approximately 20 percent net income margin throughout the period; total cost was approximately 80 percent). The estimated operating/net income margins for all 14 processors/refiners are presented in table E-3C. The estimated operating/net income margins would be higher if the assumption of total cost percentages were lower than 80 percent.

Based on the annual reports obtained for *** (2004 and prior periods), their member gross /net beet payments per acre harvested increased significantly from 2003 to 2004, $*** from $*** for gross payment and $*** from $*** for net payment, which showed the same and consistent trends compared to the financial trend in the financial section.

Table E-3A
Sugar: Results of operations of all U.S. processors/refiners, fiscal years 1999-2004, January-March 2004, and January-March 2005

Item	Fiscal year						January-March	
	1999	2000	2001	2002	2003	2004	2004	2005
	Ratio to net sales (*percent*)							
Operating income	13.2	12.5	9.9	12.2	10.9	15.4	18.4	20.9
Net income	10.0	8.9	6.9	11.6	9.6	15.5	19.1	20.2

As noted in the text, *** did not report raw material costs. As a result, their cost of goods sold are understated and their operating and net incomes are overstated. If the data of these two companies were excluded, the ratios of operating income to net sales decrease to ***, and the ratios of net income to net sales decrease to *** for fiscal years 1999 to 2004 and January-March 2004 and 2005, respectively. These data are presented in table III-E-3B, below.

Table E-3B
Sugar: Results of operations of U.S. processors/refiners excluding *, fiscal years 1999-2004, January-March 2004, and January-March 2005**

* * * * * * *

Staff estimated the raw material costs of two processors who did not report raw material costs, based on the growers' financial experience in table III-14, i.e., approximately 20 percent of net income margin throughout the period (total costs of growers were approximately 80 percent of net revenue), and the resulting estimated operating/net income margins for all 14 processors/refiners are presented in table

E-3C. The estimated operating/net income margins would be higher if the assumption of the percentage of total costs were lower than 80 percent.

Table E-3C
Sugar: Results of operations of U.S. processors/refiners with estimated raw material costs for *, fiscal years 1999-2004, January-March 2004, and January-March 2005**

* * * * * * *

APPENDIX F

U.S. AND WORLD PRICES OF REFINED SUGAR (1980-2004)

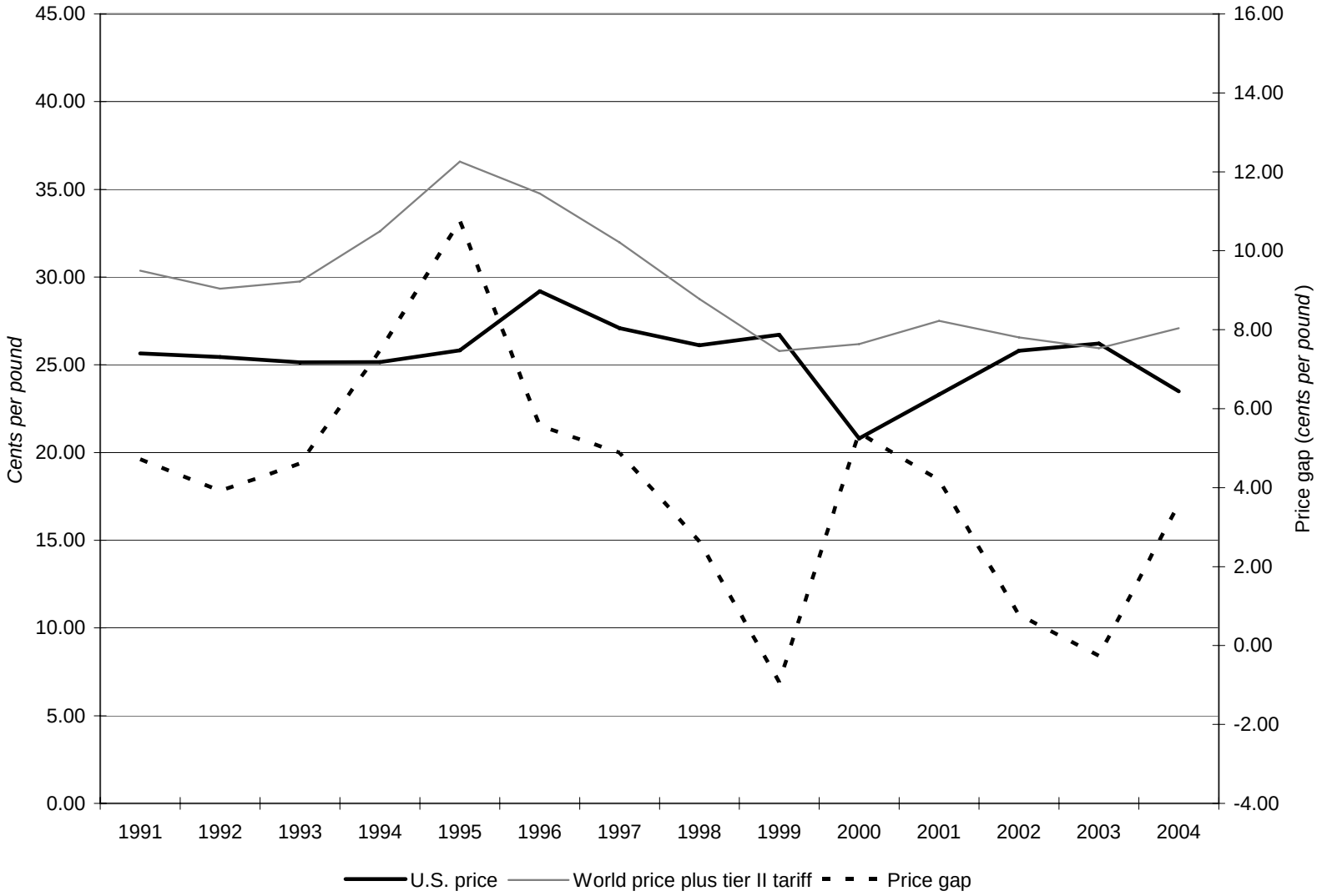
Table F-1
Sugar: U.S. and World prices, annual, 1980-2004

Year	U.S. price[1]	World price[2]	U.S. tier II tariff	World price plus tier II tariff	Price gap
			Cents per pound		
1980	38.29	32.30	(3)	(3)	(3)
1981	28.26	20.51	(3)	(3)	(3)
1982	27.62	11.36	(3)	(3)	(3)
1983	26.10	11.40	(3)	(3)	(3)
1984	25.66	7.71	(3)	(3)	(3)
1985	23.18	6.79	(3)	(3)	(3)
1986	23.38	8.47	(3)	(3)	(3)
1987	23.60	8.75	(3)	(3)	(3)
1988	25.44	12.01	(3)	(3)	(3)
1989	29.06	17.16	(3)	(3)	(3)
1990	29.97	17.32	(3)	(3)	(3)
1991	25.65	13.41	16.96	30.37	4.72
1992	25.44	12.39	16.96	29.35	3.91
1993	25.15	12.79	16.96	29.75	4.61
1994	25.15	15.66	16.96	32.62	7.46
1995	25.83	17.99	18.60	36.59	10.76
1996	29.20	16.64	18.12	34.76	5.56
1997	27.09	14.33	17.64	31.97	4.88
1998	26.12	11.59	17.16	28.75	2.63
1999	26.71	9.10	16.69	25.79	-0.93
2000	20.80	9.97	16.21	26.19	5.38
2001	23.31	11.29	16.21	27.50	4.19
2002	25.79	10.35	16.21	26.57	0.77
2003	26.21	9.74	16.21	25.95	-0.26
2004	23.48	10.87	16.21	27.08	3.60

[1] U.S. wholesale refined beet sugar price in Midwest markets.
[2] Contract No. 5, London daily price for refined sugar, f.o.b. Europe, spot.
[3] Not applicable. The U.S. system of tariff-rate quotas was established in October 1990.

Source: USDA, Economic Research Service; Harmonized Tariff Schedules of the United States.

Figure F-1
Sugar: U.S. and World prices, annual, 1990-2004



Source: USDA Economic Research Service; Harmonized Tariff Schedules of the United States.