

Finally, with respect to the USBSA's arguments that current pricing information demonstrates dumping, we note that the USBSA did not provide evidence of "good cause" to support the Department's use of current pricing information (see section 351.218(d)(3)(iv) of the *Sunset Regulations*). However, even considering the substance of the USBSA's arguments, we note that there was a significant discrepancy between the values the USBSA and Rogers reported. Both the USBSA and Rogers supplied information related to Canadian and U.S. pricing and cost of production. The USBSA based its estimated dumping margins on U.S. wholesale prices, Canadian wholesale prices, and estimated transportation costs. The USBSA utilized a price from Rogers' Saskatchewan Price List as the Canadian wholesale price. In its rebuttal comments, however, Rogers argued that Canadian sellers operate on high list prices and high discounts and, because of this, the published list price of Rogers is much higher than its actual discounted price. Rogers submitted copies of record bulk sales invoices to Canadian customers, which supported its assertion that sales are discounted. These discounted prices were significantly below the price used by the USBSA to represent the Canadian market price. Rogers also provided its average annual prices into the United States for the past eight years. The value Rogers reported as its export price into the United States differed from the U.S. price used by the USBSA in its calculations. Finally, there was a significant difference in the cost of production values reported by both parties.¹⁶ Therefore, we preliminarily determine that the information submitted by Rogers in its substantive and rebuttal responses refutes the more generalized data provided by the USBSA.

Based on this analysis, the Department preliminarily finds, consistent with the SAA at 889-90, and the House Report at 63, that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping

¹⁶ With respect to the USBSA's constructed value calculations, the Department finds these calculations to be speculative. Specifically, the calculations used 1994/95 data on the average total cost of production together with 1998 data on the U.S. wholesale price of sugar, 1998 data on the cost of transportation and, for one of the two constructed value calculations, the 1998 tier 2 tariff rate. The use of 1994/1995 data in 1998 dumping margin calculations suggests that findings from such calculations would be highly speculative.

is less likely to continue if the order were revoked." That is, the Department preliminarily finds that the continued absence of a dumping margin for Rogers and the continued existence of imports from Rogers in substantial quantities demonstrates that Rogers is capable of selling the subject merchandise in the United States without dumping. Further, the Department preliminarily finds no evidence to suggest that Rogers would begin dumping subject merchandise in the foreseeable future, regardless of the existence or absence of any outside importation restrictions. Therefore, the Department preliminarily determines that dumping is not likely to recur if the order were revoked.

Magnitude of the Margin

Parties' Comments

In its substantive response, the USBSA argued that the dumping margin likely to prevail is at least as large as the margin that prevailed at the time of the original investigation. The highest dumping margin established in the original investigation was US\$0.0237/lb.¹⁷ Further, based on current U.S. and Canadian pricing, the USBSA estimated dumping margins ranging from 9.3 percent to 409.0 percent.

In its substantive response, Rogers argued that, given the price spread between the U.S. supply-managed sugar market and the Canadian market based on world pricing, the dumping margin likely to prevail if the order were to be revoked is zero. Rogers argued that, because of its limited access to the U.S. market, it is motivated to sell at U.S. refined sugar prices to maximize returns. Rogers provided a chart depicting sugar prices in the Canadian and U.S. markets and its price into the United States for the past eight years, as well as a calculation for producing processed beet sugar at its facility in Canada. The chart indicates that Rogers' price into the United States has been above its prices in Western Canada.

Department's Determination

Because we preliminarily determine that dumping is not likely to recur were the order revoked, there is no magnitude of the margin of dumping to report to the Commission.

Preliminary Results of Review

The Department preliminarily finds that revocation of the order is not likely to lead to continuation or recurrence of dumping. As a result of this determination, the Department, pursuant to section 751(d)(2) of the Act,

¹⁷ See *Antidumping Duty Order; Sugar and Syrups from Canada*, 45 FR 24128 (April 9, 1980).

preliminarily intends to revoke the antidumping duty order on sugar and syrups from Canada. Pursuant to section 751(c)(6)(A)(iv) of the Act, this revocation would be effective January 1, 2000. The Department preliminarily intends to instruct the U.S. Customs service to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date), and to discontinue collection of cash deposits on entries of subject merchandise as of the same date.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on June 15, 1999. Interested parties may submit case briefs no later than June 8, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than June 14, 1999, in accordance with 19 CFR 351.309(d). The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than August 27, 1999.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-10287 Filed 4-23-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-408-046]

Preliminary Results of Full Sunset Review: Sugar From the European Community

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of full sunset review: Sugar from the European Community.

SUMMARY: On October 1, 1998, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on sugar from the European Community ("the Community") (63 FR 52683) 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 filed on behalf of the domestic industry and adequate

substantive comments filed on behalf of the domestic industry and respondent interested parties, the Department is conducting a full review. As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Preliminary Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution, Washington, DC 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: April 26, 1999.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 C.F.R. part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this countervailing duty order is sugar, with the exception of specialty sugars (e.g., cones, hats, pearls, loaves), from the European Community. Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order. According to the final results of the Department's most recent administrative review, the merchandise subject to this order is currently classifiable under item numbers 1701.11.00, 1701.12.00, 1701.91.20, and 1701.99.00 of the Harmonized Tariff Schedule of the United States ("HTSUS") (see *Sugar From the European Community; Final Results of Countervailing Duty Administrative Review*, 55 FR 35703 (August 31, 1990)). In their substantive response, the Associations stated that

the merchandise subject to the order is currently classifiable under item numbers 1701.11.0025, 1701.11.0045, and 1702.90.300 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Background

On July 31, 1978, the Department of the Treasury ("Treasury") issued its Final Countervailing Duty Determination, T.D. 78-53 (43 FR 33237). The Department has conducted several administrative reviews of this outstanding countervailing duty order.¹

On October 1, 1998, the Department initiated a sunset review of the countervailing duty order on sugar from the European Community (63 FR 52683), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from the United States Beet Sugar Association ("the USBSA") and the United States Cane Sugar Refiners' Association ("the USCSRA") (collectively "the Associations") on October 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Both associations claimed interested party status under section 771(9)(E) of the Act, as trade associations, a majority of whose members produce sugar in the United States. We received complete substantive responses from the European Commission ("the Commission") and from the Associations on October 30, and November 2, 1998, respectively, within the 30-day deadline specified in section 351.218(d)(3)(i) of the *Sunset Regulations*.

In its substantive response, the USBSA and its member organizations, and the USCSRA and its member organizations, stated that they are comprised of members that produce refined sugar from sugar beets and raw cane sugar, respectively, and, therefore, their member organizations constitute domestic interested parties under section 771(9)(C) of the Act. The Associations stated that, together, they represent nearly all of the refined sugar production in the United States. The

¹ See *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 46 FR 46984 (September 23, 1981); *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 48 FR 35001 (August 2, 1983); *Sugar from the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 49 FR 45039 (November 14, 1984); and *Sugar From the European Community; Final Results of Countervailing Duty Administrative Review*, 55 FR 35703 (August 31, 1990).

Associations stated that the petitioner in the original countervailing duty investigation was the Florida Sugar Marketing and Terminal Association Incorporated ("FSMTAI"), that the USCSRA requested the 1988 administrative review conducted by the Department, that the Associations requested a scope clarification in 1987, and that one or both have objected to various notices of intent to revoke issued by the Department. We received letters from the American Sugarbeet Growers Association and the FSMTAI on November 3 and November 5, 1998, respectively. Each of these associations indicated agreement with the conclusion reached in the Substantive Response of the Associations and expressed support for the order's continuation.

In its substantive response, the Commission stated that it represents the European Union ("EU"), which comprises Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the United Kingdom. In addition, the Commission stated that it is willing to participate in the sunset review as the authority responsible for administering the sugar export restitution scheme and that it has, in the past, submitted responses to the Department with regard to the countervailing duty order. The Commission qualifies as an interested party under section 771(9)(B) of the Act.

On November 9, 1998, we received rebuttal comments from the Associations. We did not receive rebuttal comments from the Commission.

On the basis of the complete substantive responses filed by domestic interested parties and the Commission, and in accordance with section 351.218(e)(2) of the *Sunset Regulations*, the Department is conducting a full sunset review.

The Department determined that the sunset review of the countervailing duty order on sugar from the European Community is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (See section 751(c)(6)(C) of the Act.) Therefore, on January 15, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than April 19,

1999, in accordance with section 751(c)(5)(B) of the Act.²

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission ("the ITC") the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide the ITC information concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement").

The Department's preliminary determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, parties' comments with respect to each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Party Comments

In their substantive response, the Associations stated that the EU continues to make restitution payments to sugar exporters under the Common Agricultural Policy ("CAP"). The Associations argued that, although the CAP has been modified and reformed in minor respects since the original countervailing duty order was issued in 1978, it continues to provide a system of production quotas, guarantees, and export restitution payments like those addressed in the earlier countervailing duty determination.

The Associations stated that during the last twenty years, the CAP sugar regime has repeatedly been held to

violate U.S. countervailing duty laws and GATT principles. In support of this statement, the Associations referred to several determinations, including the 1982 injury determination by the ITC,³ a 1996 sunset review by the Canadian International Trade Tribunal,⁴ and two GATT panel reports.⁵

Further, the Associations argued that the import performance following the publication of the order establishes the likelihood that countervailable subsidies on sugar from the EU will continue. The Associations explained that, immediately after the imposition of the order, imports of subject merchandise disappeared from the U.S. market, thereby demonstrating that sugar can be sold in the United States only with the aid and benefit of subsidies. Although acknowledging that access to the U.S. market for foreign-origin sugar has been limited by quota since 1982, the Associations argued that the downward trend in the world price of refined sugar will shortly make it feasible to ship refined sugar into the United States despite the operation of the tariff rate quota ("TRQ") on sugar imports. Further, the Associations stated that the TRQ rate is scheduled to be reduced in 1998, 1999, and 2000, with the underpinning for current U.S. sugar policy due to expire at the end of 2002.

In its substantive response, the Commission stated that the system of granting sugar export refunds in the Community is still in force as part of the Community's CAP. The Commission argued that the system is WTO-

³The ITC determined that revocation of the countervailing duty order will threaten material injury to the U.S. sugar industry based primarily on its assessment that the European Community ("EC") will continue to subsidize exports. See Associations' Substantive Response, at 25 (November 2, 1998), referring to *Sugar from the European Communities*, ITC Investigation No. 104-TAA-7, 47 Fed. Reg. 23057 (1982).

⁴The EU's export restitution payments under the CAP were again determined to be countervailable subsidies. See Associations' Substantive Response, at 26 (November 2, 1998), referring to *The Dumping in Canada of Refined Sugar Originating in or Exported From the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the Subsidizing of Refined Sugar Originating in or Exported From the European Union*, Review No. RD-95-001, 1 T.T.R. (2d) 355 (July 26, 1996).

⁵The panels determined that the Community system [for granting refunds on exports of sugar] and its application constitutes a threat of serious prejudice in terms of Article XVI.1. See Associations' Substantive Response, at 25 (November 2, 1998), referring to *GATT Dispute Panel Report on Complaint By Brazil Concerning EC Refunds on Exports of Sugar*, L/5011-27S/69, at part V (adopted November 10, 1980) and *GATT Dispute Panel Report on Complaint By Australia Concerning EC Refunds on Exports of Sugar*, L/4833-26S/290, at part V (adopted November 6, 1979).

compatible and that the export refund is determined in such a way as not to undermine the world market price of sugar. The Commission explained that the export refund bridges the gap between the world market price (as quoted in the future white sugar quotations in London or Paris) and the Community effective support price (composed of the intervention price plus the storage levy) plus a lump sum amount to cover the transport costs for bringing the sugar to the Community port. Further, the Commission argued that, if the countervailing duty order is revoked, the U.S. market would not be in any way "targeted" by the export refund program as export refunds are the same for all destinations outside the EU. Finally, the Commission argued that, in view of the existence of quotas on sugar imports into the United States, revocation of the order is unlikely to have any effect on the U.S. market as actual exports to the United States are minimal.

In their rebuttal comments, the Associations stated that the trend in the world price of sugar assures that the world price of sugar will be below the EU intervention prices for the foreseeable future. Additionally, the Associations argued that, contrary to the Commission's argument that the existence of the quota on sugar effectively prevents the recurrence of any countervailable subsidy, it is now economically feasible to ship sugar to the United States despite the quota. In conclusion, the Associations requested that, based on the information contained in their substantive response and the Commission's own admission that restitution payments will continue to be made on exports of the subject merchandise to compensate European producers for the difference between the world price of sugar and the EU intervention price, the Department find that, in the event of revocation, countervailable subsidies will continue or recur.

Department's Preliminary Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department

² See *Sugar From the European Community: Extension of Time Limit for Preliminary Results of Five-Year Review*, 64 FR 3683 (January 25, 1999).

clarified that determinations of likelihood will be made on an order-wide basis (see section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (see section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (see section III.A.3.b of the *Sunset Policy Bulletin*).

In its final determination, Treasury determined that the restitution payments made upon exportation to sugar growers and processors in the EC under the CAP constitute a bounty or grant, the net amount of which was determined to be 10.8 cents/pound of sugar (see *Final Countervailing Duty Determination*, 43 FR 33237 (July 31, 1978)). The Department has conducted several administrative reviews of this outstanding countervailing duty order and, in each review, determined a net subsidy rate from this program (see footnote 1).

Because the Commission specifically acknowledged that the export restitution program remains in place, and on the basis of the information presented by the parties, the Department preliminarily determines that the program continues to exist and, therefore, if the order were to be revoked, a countervailable subsidy would continue or recur.

Net Countervailable Subsidy

Party Comments

In their substantive response, the Associations argued that the countervailing duty rate likely to prevail if the order is revoked would be at least as large as that existing at the time of the original order, and would probably be significantly larger since the difference between the EU and world price has increased. The Associations argued that since the restitution payments are provided to compensate sugar producers for the difference between the higher EU price and the lower prevailing world market price, as the world market sugar price declines, there is a corresponding increase in the amount of the export subsidies payable to European sugar producers under the CAP. Specifically, the Associations stated that, if the order were to be revoked, the net countervailable subsidy that is likely to prevail, based on current subsidy levels

and pricing, would be 27.97 cents per pound of sugar.⁶

In its substantive response, the Commission provided the average export refund per marketing year for the years 1995/96 through 1997/98. The average export refund for marketing years 1997/98 was reported as 44.01 ECU per 100 kg (which is 18.61 cents per pound). This is consistent with information provided by the Associations.⁷

In its substantive response, the Commission stated that the export refund bridges the gap between the world market price (as quoted in the future white sugar quotations in Paris or London) and the Community effective support price (composed of the intervention price plus a storage levy) plus a lump sum amount to cover the transport costs for bringing the sugar to a Community port. Further, although this calculation results in the maximum theoretical export refund that can be granted, the actual refund granted to exporters (normally fixed on a weekly basis) is always at a lower level. The Commission noted that not all sugar exported from the EU is entitled to an export refund; specifically, sugar produced in excess of production quotas is not entitled to export refunds. The Commission noted that if the world market price exceeds the internal EU price, no refunds are paid; on the contrary, an export levy is charged on all export shipments from the EU. The Commission concluded by stating that because the export refund covers the difference between the internal EU price and the world price for sugar, it is not feasible to establish the level of export restitution in advance.

Department's Preliminary Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the

⁶The Associations cite an October 28, 1998, article from Bloomberg News, in which the EU's sugar management committee is reported as agreeing to pay traders an export subsidy of 513.00 European currency units per ton on 120,250 tons of sugar exported to non-EU markets. Using the Federal Reserve Bank of New York October 28, 1998, exchange rate of ECU 1 = \$1.1918, the Associations calculated the subsidy to be \$61.66 per 220.46 pounds or \$0.2797 per pound. See Associations' Substantive Response, at 35 and Appendix 12 (November 2, 1998).

⁷In their substantive response, the Associations provided copies of The Czarnikow Sugar Review published September 9, 1998, which reported the "weighted average of export refunds at the tenders was 44.012 ecu per 100 kg." See Substantive response at Appendix 6.

House Report, H.R. Rept. No. 103-826, pt.1 (1994), and the Senate Report, S. Rept. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for determinations of the net countervailable subsidy. In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, "the Department normally will select a rate 'from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place.'" The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, if there has been a program-wide change, or if the rate ignores a program found to be countervailable in a subsequent administrative review. (See section III.B.3 of the *Sunset Policy Bulletin*).

In its final countervailing duty determination, Treasury determined that the net amount of the bounty or grant provided by this program was 10.8 cents/pound of sugar. This amount represented the average maximum restitution level set by the EC for sugar exports during the first half of 1978. Although noting that sugar exporters could, on particular shipments, receive less than the maximum restitution, the level of which was set at least every three weeks by the EC, Treasury determined that this figure represented an accurate approximation of the subsidy being paid on recent shipments to the United States (see *Final Countervailing Duty Determination*, 43 FR 33237 (July 31, 1978)).

As noted above, the Department has conducted several administrative reviews of this order (see footnote 1). In the first administrative review conducted by the Department, the Department noted that export restitution payments on sugar are adjusted constantly to reflect the movement in world market sugar prices (see *Sugar From the European Communities; Final Results of Administrative Review of Countervailing Duty Order*, 46 FR 46984 (September 23, 1981)). Since that time, the Department determined the level of subsidy on the basis of information obtained from various independent statistical gathering organizations as well as from the United States Department of Agriculture, the Federal Republic of Germany, and the Journals of the EC (see footnote 1). The Department never calculated an *ad valorem* subsidy rate. Rather, the

subsidy was always expressed in terms of cents per pound of sugar. We note that in the *Sunset Policy Bulletin* we clarified that, in a sunset review of a countervailing duty order where the original investigation was conducted by Treasury, the Department normally will provide to the Commission the net countervailable subsidy from the first final results of administrative review published in the **Federal Register** by the Department, where the net countervailable subsidy was first calculated on an *ad valorem* basis. (See section III.B.1 of the *Sunset Policy Bulletin*.) As discussed above, however, the Department has never calculated an *ad valorem* subsidy rate in this proceeding.

As discussed in the *Sunset Policy Bulletin*, the Department normally will report to the ITC an original subsidy rate as adjusted to take into account terminated programs, program-wide changes, programs found to be countervailable in subsequent reviews. Since the original investigation the export restitution program has not been terminated. Further, the changes in the world market and EU prices of sugar do not constitute a program-wide change. Finally, no other countervailable programs have been found in subsequent administrative reviews of the countervailing duty order. Therefore, consistent with the *Sunset Policy Bulletin*, we preliminarily determine that the 10.80 cents/pound rate from the investigation is the net countervailable subsidy likely to prevail if the order were revoked.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. Neither party specifically addressed this issue, although the Commission did state that the system for granting sugar export refunds is WTO-compatible.

Although the export restitution payments on sugar fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, Article 3.1 does not apply to products covered by the Agreement on Agriculture. Similarly, in accordance with Article 13(c) of the Agreement on Agriculture, export subsidies that conform fully to the provisions of Part V of the Agreement on Agriculture, are exempt from the provisions of Article 6 of the Subsidies Agreement. However, export subsidies, including the export

restitution payments, are subject to countervailing duties, as provided in Article 13(c) of the Agreement on Agriculture.

Preliminary Results of Review

As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy likely to prevail if the order were revoked is 10.80 cents per pound. Although qualifying as a countervailable export subsidy, Article 3 of the Subsidies Agreement does not apply to the export restitution payments program under the EC's CAP.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on June 15, 1999. Interested parties may submit case briefs no later than June 8, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than June 14, 1999, in accordance with 19 CFR 351.309(d). The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than August 27, 1999.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 19, 1999.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

[FR Doc. 99-10288 Filed 4-23-99; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs,

International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104, Washington, DC 20230. Business confidential information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 90-6A007".

United States Surimi Commission's ("USSC") original Certificate was issued on August 22, 1990 (55 FR 35445, August 30, 1990) and subsequently amended on December 12, 1990 (55 FR 53031, December 26, 1990); June 11, 1991 (56 FR 27946, June 18, 1991); May 22, 1992 (57 FR 23078, June 1, 1992); August 12, 1993 (58 FR 44504, August 23, 1993); and August 3, 1995 (60 FR 41879, August 14, 1995).