

March 27, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: H.R. 2771, Representative Christopher Shays of Connecticut

Companion bill: None

Title as introduced: A bill to amend the Harmonized Tariff Schedule of the United States relating to the definition of raw value for purposes of raw sugar import tariff rate quota.

Summary of bill:² This bill amends Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States. The change in the headnote will revise the method of calculating the polarization of sugar entries. Final pol charges, after the U.S. Customs laboratories determine polarization, will then conform to the Contract No. 14, which is acknowledged in the industry as the basis of commercial raw value settlement. This is a technical correction and does not alter the tariff rate quota.

Effective date: The 15 day after enactment.

Retroactive effect: None.

Statement of purpose:

Representative Shays made no comments in the *Congressional Record* at the time of the introduction of this bill. However, staff in Representative Shays' office stated that the purpose of the legislation is to revise the method of calculating the polarization of sugar imports to agree with the commercial practice in the United States.

Product description and uses:

Sugar is used as a food ingredient for taste, bulk or preservation in many manufactured food products, processed food products and used as consumer condiment. Raw sugar is imported by cane refiners to process (refine) into a fungible food product.

¹ Industry analyst: Jean Harman (205-3313); attorney: Janis Summers (205-2605).

² See appendix A for definitions of tariff and trade agreement terms.

Tariff treatment:³

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
raw sugar, cane origin <i>in quota</i>	1701.11.10	1.4606 ¢ /kg less 0.020668¢ /kg for each degree under 100 ^{o4}
raw sugar, cane origin <i>over quota</i>	1701.11.50	35.86 ¢/kg
raw sugar, cane origin <i>exempt</i>	1701.11.05	1.4606¢ /kg less 0.020668¢ /kg for each degree under 100 ^{o5}
raw sugar, cane origin <i>industrial use</i>	1701.11.20	1.4606¢ /kg less 0.020668¢ /kg for each degree under 100 ^{o6}
raw sugar, beet origin <i>exempt</i>	1701.12.05	3.6606 ¢ /kg less 0.020668¢/ kg for each degree under 100 ^{o7}
raw sugar, beet origin <i>in quota</i>	1701.12.10	3.6606 ¢ /kg less 0.020668¢/ kg for each degree under 100 ^{o8}
raw sugar, beet origin	1701.12.50	37.84 ¢ /kg
refined sugar, <i>in quota</i>	1701.91.10	3.6606 ¢ /kg less 0.020668¢/ kg for each degree under 100 ^{o9}
refined sugar, <i>over quota</i>	1701.91.30	37.84 ¢ /kg
refined sugar, <i>exempt</i>	1701.99.05	3.6606 ¢ /kg less 0.020668¢/ kg for each degree under 100 ^{o10}
refined sugar, <i>in quota</i>	1701.99.10	3.6606 ¢ /kg less 0.020668¢/ kg for each degree under 100 ^{o11}
refined sugar, <i>over quota</i>	1701.99.50	37.84 ¢ /kg
syrups, cane or beet, with added coloring, <i>exempt</i>	2106.90.42	3.6606 ¢ /kg
syrups, cane or beet, with added coloring, <i>in quota</i>	2106.90.44	3.6606 ¢ /kg
syrups, cane or beet, with added coloring, <i>over quota</i>	2106.90.46	3.6606 ¢ /kg

³ See appendix B for column 1-special and column 2 duty rates.

⁴ And fractions of a degree in proportion but not less than 0.943854 cents/ kg

⁵ And fractions of a degree in proportion but not less than 0.943854 cents/ kg.

⁶ And fractions of a degree in proportion but not less than 0.943854 cents/ kg

⁷ And fractions of a degree in proportion but not less than 3.143854 cents/ kg.

⁸ And fractions of a degree in proportion but not less than 3.143854 cents/ kg.

⁹ And fractions of a degree in proportion but not less than 3.143854 cents/ kg.

¹⁰ And fractions of a degree in proportion but not less than 3.143854 cents/ kg.

¹¹ And fractions of a degree in proportion but not less than 3.143854 cents/ kg.

Structure of domestic industry (including competing products):

The sugar industry in the United States has several principal parts to it, and is generally considered to be the dominant part of the sweeteners industry. In addition to sugar, the sweeteners industry includes high fructose corn syrup (HFCS) and, the non-nutritive or chemical sweeteners. Sugar beet growers, sugar cane growers, beet sugar producers and cane refiners, who also import raw sugar for refining, comprise the producing side of the industry. The consuming industry is dominantly comprised of food manufacturers and sugar for consumer use. Raw sugar, the primary imported product, is further processed by the refining segment of the industry. Raw cane sugar under the tariff rate quota (trq) enters the United States under HTS 1701.11.10.

Private-sector views:

On February 10, 1998, information was faxed to individuals or groups representing every segment of the industry¹². The current head note information was sent along with the proposed revision. The only response received was from the American Sugar Alliance stating they had no comment on the proposed legislation.

U.S. consumption:

Sugar:	<u>FY1994</u>	<u>FY1995</u>	<u>FY1996</u>
	------(1,000 metric tons, raw value)-----		
U.S. production.....	7,191	6,686	6,577
U.S. imports.....	1,664	2,536	2,508
U.S. exports.....	472	327	191
Apparent U.S. consumption.....	8,470	8,667	8,860

Principal import sources: Brazil, Dominican Republic, Australia, Philippines, Guatemala, Peru and Panama.

Principal export markets: there is no exportation of raw sugar

Effect on customs revenue:

Future (1998-2001) effect: Insignificant or an incremental positive amount, dependent on the size of the quota and country or origin.

Retroactive effect: None

¹² Jack Roney, The American Sugar Alliance; Nick Kominus, The United States Cane Refiners Association; Tom Hammer, Sugar Users Group, and Paul Ryberg who represents the government of Mauritius and works in conjunction with other representatives of the various governments who ship raw sugar to the United States.

Technical comments:

The effect and intent of this bill is to make a technical correction that will make the measuring practices of raw sugar uniform . Further more it will conform to the number 14 contract polarization schedule which is the industry basis of all commercial raw value settlement.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 8/12/97

APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

105TH CONGRESS
1ST SESSION

H. R. 2771

To amend the Harmonized Tariff Schedule of the United States relating to the definition of raw value for purposes of raw sugar import tariff rate quota.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 1997

Mr. SHAYS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Harmonized Tariff Schedule of the United States relating to the definition of raw value for purposes of raw sugar import tariff rate quota.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENT TO HARMONIZED TARIFF SCHED-**
4 **ULE OF THE UNITED STATES RELATING TO**
5 **THE DEFINITION OF RAW VALUE FOR RAW**
6 **SUGAR IMPORT TARIFF RATE QUOTA.**

7 (a) IN GENERAL.—Additional U.S. Note 5 to chapter
8 17 of the Harmonized Tariff Schedule of the United

1 States is amended by striking paragraph (c) and inserting
2 the following new paragraph:

3 “(c) For purposes of this note, the term ‘raw value’
4 means the equivalent of such articles in terms
5 of ordinary commercial raw sugar testing 96
6 degrees by the polariscope as determined in ac-
7 cordance with regulations or instructions issued
8 by the Secretary of the Treasury. Such regula-
9 tions or instructions may, among other things,
10 provide: (i) for the entry of such articles pend-
11 ing a final determination of polarity; and (ii)
12 that positive or negative adjustments for dif-
13 ferences in preliminary and final raw values be
14 made in the same or succeeding quota periods.
15 The principal grades and types of sugar shall
16 be translated into terms of raw value in the fol-
17 lowing manner:

18 “(A) For articles described in subheadings
19 1701.11.10 and 1701.11.50, by multiply-
20 ing the number of kilograms thereof by—
21 “(i) for the full degree from 94° to, but
22 not including 95°, 0.9175;
23 “(ii) for the full degree from 95° to and in-
24 cluding 96°, 0.945;

1 “(iii) for the full degree from more than
2 96° to and including 97°, 1.005;

3 “(iv) for the full degree from more than
4 97° to and including 98°, 1.0275; and

5 “(v) for the full degree from more than
6 98° to, but not including 99.5°,
7 1.0395.

8 “(B) For articles described in subheadings
9 1701.11.05, 1701.11.20, 1701.12.05,
10 1701.12.10, 1701.12.50, 1701.91.05,
11 1701.91.10, 1701.91.30, 1701.99.05,
12 1701.99.10, 1701.99.50, 2106.90.42,
13 2106.90.44, and 2106.90.46, by multiply-
14 ing the number of kilograms thereof by the
15 greater of 0.93, or 1.07 less 0.0175 for
16 each degree of polarization under 100 de-
17 grees (and fractions of a degree in propor-
18 tion).

19 “(C) For articles described in subheadings
20 1702.90.05, 1702.90.10, and 1702.90.20,
21 by multiplying the number of kilograms of
22 the total sugars thereof (the sum of the su-
23 crose and reducing sugars or invert sug-
24 ars) by 1.07.

1 “(D) The Secretary of the Treasury shall estab-
2 lish methods for translating sugar into
3 terms of raw value for any special grade or
4 type of sugar, syrup, or molasses for which
5 he/she determines that the raw value can-
6 not be measured adequately under the
7 above provisions.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect 15 days after the date of
10 the enactment of this Act.

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