

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 LEGISLATION ¹

[**Date approved:** March 20, 2002]²

Bill No.: H.R. 3516; 107th Congress

Introduced by: Mr. NUSSLE et al.

Similar and/or related³ bills: None.

Summary of the bill.⁴

The bill would suspend temporarily the general rate of duty⁵ on--

saccharose [sucrose] used for nonfood, nonnutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production.

Effective date: The 15th day after the date of enactment.

Through: December 31, 2004.

Retroactive effect: December 31, 2000.

[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]

¹ International trade analyst: Devry Boughner (202-205-3313); attorney advisor: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm> Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

⁴ The product nomenclature is as set forth in the bill. See technical comments for suggested changes (if any).

⁵ See appendix A for definitions of tariff and trade agreement terms.

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ⁶
Genencor International, Inc.	Washington, DC	January 28, 2002	Yes

Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N):

If “Yes,” provide location of this facility if different from above (city/state): Cedar Rapids, Iowa; Elkhart, Indiana

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): n/a

The imported product	
Description and uses	Country(s) of origin
<p>The imported product, “saccharose,” is classifiable in the Harmonized Tariff Schedule of the United States (HTS) as “other cane or beet sugar and chemically pure sucrose in solid form” (subheading 1701.99). “Saccharose” is simply refined sugar derived from either sugar cane or sugar beets. Refined sugar is a product almost entirely void of impurities (i.e., refined sugar is essentially 99.9 percent pure sucrose, which is a disaccharide having the chemical formula C₁₂H₂₂O₁₁). The cited HTS subheading is subdivided for purposes of administering a tariff-rate quota (TRQ), the within-quota quantity of which can be allocated among suppliers. While the within-quota quantity is dutiable at a lower negotiated rate, over-quota shipments are dutiable at a relatively high, if not prohibitive, duty rate. The trigger quantity set in additional U.S. note 5(a) to chapter 17 covers goods of 5 subheadings, not just the one applicable to the instant saccharose (subheading 1701.99.10). As a result, it is likely that at least some shipments of this product (those for which any necessary certificate of eligibility might be unavailable and those entered when the TRQ quantity has filled) would receive the over-TRQ rate</p>	<p>Any country; the proponent of the bill purchases the refined sugar through a broker, and the country of origin of the product cannot be easily identified, as refined sugar is fungible.</p>

⁶ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

⁷ The phrase “further processing or handling” can include repackaging, storage or warehousing for resale, etc.

The imported product	
of duty. According to the proponent of the bill, “saccharose” is a technical name for sucrose in a particular non-food application. The imported sucrose is used as a seed kernel in the manufacture of industrial enzymes in the proponent’s granulation process. The sucrose granule is spray-coated with liquid enzyme formulations, resulting in the creation of spherical granules that are designed for specific applications in detergents, grain processing, or animal feed additives, for example.	

– EFFECT ON CUSTOMS REVENUE –

[Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office “scoring” guidelines. If the indicated duty rate is subject to “staging” during the duty suspension period, the rate for each period is stated separately.]

HTS number used in the bill: 1701.99.50 ⁸					
 	2001 ⁹	2002	2003	2004	2005
General over-quota rate of duty ¹⁰ (AVE) ^{11 12}	132%	132%	132%	132%	132%
Estimated value <i>dutiable</i> imports	\$244,620	\$256,851	\$269,626	\$283,216	\$297,349

⁸ The HTS number set forth in the bill is the 6-digit subheading, 1701.99. As tariff rates are not applied on the 6-digit level, the Commission presumes that the proponents are effectively requesting the temporary suspension of duty under subheading 1701.99.50, under which over-quota imports of refined sugar enter. Subheading 1701.99.10 covers the within-tariff-rate quota shipments of the subject refined sugar, and the proponent’s ability to import the desired amount of subject refined sugar under this provision is likely restricted, as explained above. Thus, in this report, the general rate of duty, estimated value of dutiable imports, and customs revenue loss are based on the 8-digit subheading 1701.99.50.


⁹ Customs revenue loss is calculated for 2001 in accordance with the provision of the bill (section 1(b)(2)), which authorizes the reliquidation (i.e., refund) of duties paid beginning January 1, 2001. We assume that all importers would request reliquidation.

¹⁰ See appendix B for column 1-special and column 2 duty rates.

¹¹ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹² An automatic safeguard duty is applied to over-quota imports of refined sugar (see HTS chapter 99 subchapter 4). The general AVE rate of duty inclusive of the additional safeguard duty is 148 percent.

HTS number used in the bill: 1701.99.50 ⁸					
Customs revenue loss	\$322,898	\$339,043	\$355,906	\$373,845	\$392,501

HTS number recommended by the Commission: <u>n/a</u> ¹³					
	2001	2002	2003	2004	2005
General rate of duty (AVE)					
Estimated value <i>dutiable</i> imports					
Customs revenue loss					

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than the proponents</i>			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ¹⁴
United States Beet Sugar Association	Washington, DC	January 28, 2002	Yes
U.S. Cane Sugar Refiners' Association	Arlington, VA	January 28, 2002	No

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which*

¹³ If a different HTS number is recommended, see technical comments.

¹⁴ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

may compete with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]

Statements concerning current U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
None.			

Statements concerning “future” or “competitive” U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
None.			

– TECHNICAL COMMENTS –

*[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to **eight digits**. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

We would suggest that if “nonfood” means “other than in food for human consumption” then the proposed article description could be so amended. We would also suggest that “1701.99” might be replaced by “1701.99.10 or 1701.99.50” or merely by “1701.99.50” as discussed above. It would seem that the duty rate for goods described in general note 15 to the HTS (for example, government importations) should not be suspended, given that the proponent has not stated that any of the subject sugar could qualify under the general note. We would defer to the Administration as to whether the within-TRQ provision’s general duty rate should be suspended.

Recommended changes to any CAS numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

*Basis for recommended changes to the HTS number used in the bill:*¹⁵

n/a

Other technical comments (if any):

The proposed provision uses a descriptive product name that is not employed in the HTS along with an “actual use” requirement, which must be verified by the Customs Service within 3 years of the date of entry. This use standard is written as a 3-element test: the product must be put to non-food/ non-nutritional use, it must be used as a seed kernel, and the latter must be “in additional layers an industrial granulation process for biocatalyst production” (an ambiguous phrase). We would defer to Customs in commenting on the language suggested for the description other than to say that it would appear to be subject to interpretation and may be burdensome to administer.

¹⁵ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee’s consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

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 normal trade relations 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 listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam) plus Serbia and Montenegro, which are subject to the statutory rates set forth in column 2. Specified goods from designated general-rate 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 September 30, 2001. 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. Eligible products of qualifying sub-Saharan African countries may qualify for duty-free entry under the African Growth and Opportunity Act (AGOA), under the terms of general note 16 to the tariff schedule, through September 30, 2008, as indicated by the symbol "D" in the special subcolumn and as set forth in subchapter XIX of chapter 98.

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. Eligible products of qualifying beneficiary countries may qualify for duty-free or reduced-duty entry under the Caribbean Basin Trade Partnership Act (CBTPA), under the terms of general note 17 to the tariff schedule, through September 30, 2008, as indicated by the symbol "R" in the special subcolumn and in subchapter XX of chapter 98.

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 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. 5/9/01

APPENDIX B

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

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

February 13, 2002

Ms. Devry S. Boughner
International Trade Analyst
US International Trade Commission
500 E. Street, SW
Washington, DC 20436

Dear Ms. Boughner,

Thank you for the opportunity to comment on H.R. 3516. We support this legislation and believe it will lead to greater international competitiveness for our company.

Genencor International is the number two player in industrial enzymes after Novozymes A/S, a Danish company. Genencor develops and manufactures enzymes for the industrial chemicals, health care and agricultural markets. A U.S. company, Genencor has its R&D headquarters in Palo Alto, CA and its business headquarters in Rochester, NY.

One of the basic enabling technologies in bioprocessing is fermentation and the manufacture of biocatalysts (enzymes). Industrial enzymes are a bulk specialty biochemical used to catalyze reactions. Most enzymes are used today as active ingredients in detergents and as processing aids in the conversion of starch to high fructose syrups and other value added products like ethanol. Industrial enzymes are also used in the food processing, textile processing, animal feed and paper and pulp industries, to name just a few.

Genencor is also a leader in innovation. Five years ago, the company was awarded a \$15 million research and development grant from the Dept. of Commerce's Advanced Technology Program (ATP) of NIST. The project's objective?: To develop a continuous biocatalytic process to produce chemicals. The award was matched by the team of five companies Genencor organized and led. In May, 2000, the Dept. of Energy and National Renewable Energy Laboratory, NREL, awarded the company a three year, \$17 million grant to develop low cost biocatalytic systems to convert biomass (e.g. corn stover) into a fermentation feedstock. Accomplishing this goal will have an economically dislocating affect on the production of ethanol and all other bioproducts.

Saccharose is another technical name for sucrose in a particular non-food application. This commodity is used as a seed kernel in the manufacture of industrial enzymes in our granulation process. Genencor has developed proprietary fluidized bed granulators in which the sucrose granule is spray-coated with liquid enzyme formulations. The results are spherical granules that are specially designed for the specific applications in detergents, grain processing or animal feed additives, for example. The alternative to sucrose as a kernel is corrosive, inorganic salt. Sucrose is also used in some applications in further layers to provide additional granule functionality.

The current tariff law makes sucrose nearly twice as expensive in the United States as it is in the rest of the world. The tariff puts our Cedar Rapids and Elkhart facilities at a competitive disadvantage to other sites around the world and in particular to our Danish competitor, Novozymes A/S.

As the technology develops and biorefineries begin to displace oil refineries, the Cedar Rapids facility will likely expand to meet growing demand. Access to sucrose at world prices would improve the facility's economic competitiveness considerably. This would translate into additional capacity and expanded employment in Cedar Rapids.

Therefore we respectfully ask that the bill to temporarily suspend the duty on sucrose be enacted.

Sincerely,

Georg Anderl
Plant Manager
Genencor International, Inc.
1000 41st Ave. Dr. S.W.
Cedar Rapids, Iowa 52404

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

In a message dated 1/28/2002 11:30:38 AM Eastern Standard Time,
dboughner@usitc.gov writes:

> Jim:
>
> I phoned you earlier to discuss the attached bill. I am conducting a bill
> report on this and wanted to know whether you wish to submit comments.
>
> I hope that all is well with you.
>
> Kind regards,
> Devry Boughner
>
>
> Devry S. Boughner
> International Trade Analyst
> US International Trade Commission
> 500 E. Street, SW
> Washington, DC 20436
>
>

Devry:

Thank you for advising the U.S. Beet Sugar Association that ITC is undertaking a bill analysis of HR 3516 (introduced by Reps. Nussle and Leach on December 18, 2001), and for offering the Association an opportunity to comment. I have reviewed the legislation and have looked into the background on the issue it addresses. Based on that evaluation, the U.S. Beet Sugar Association will not be submitting comments to ITC on the bill.

I appreciate your providing this opportunity, and I hope you will notify us again whenever a similar process is in play.

Jim Johnson
U.S. Beet Sugar Association

107TH CONGRESS
1ST SESSION

H. R. 3516

To suspend temporarily the duty on saccharose used for nonfood, nonnutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2001

Mr. NUSSLE (for himself and Mr. LEACH) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To suspend temporarily the duty on saccharose used for nonfood, nonnutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production.

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. SUSPENSION OF DUTY ON SACCHAROSE.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

9902.17.01	Saccharose used for nonfood, non-nutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production (provided for in subheading 1701.99)	Free	No change	No change	On or before 12/31/2004	..
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1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) applies to articles entered, or with-
4 drawn from warehouse for consumption, on or after
5 the 15th day after the date of the enactment of this
6 Act.

7 (2) RELIQUIDATION.—Notwithstanding section
8 514 of the Tariff Act of 1930 (19 U.S.C. 1514), or
9 any other provision of law, upon a request filed with
10 the Customs Service on or before the 90th day after
11 the date of the enactment of this Act, any entry, or
12 withdrawal from warehouse for consumption, of an
13 article—

14 (A) that was made after December 31,
15 2000, and before the 15th day after the date of
16 the enactment of this Act, and

17 (B) with respect to which there would have
18 been no duty, if the amendment made by sub-
19 section (a) applied to such entry or withdrawal,

1 shall be liquidated or reliquidated as though such
2 entry or withdrawal occurred on the 15th day after
3 the date of the enactment of this Act.

○