UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
SUGAR FROM THE EUROPEAN	)	
UNION	)	104-TAA-7 (Second Review)
	)	
SUGAR FROM BELGIUM,	)	AA1921-198-200 (Second Review)
FRANCE AND GERMANY	)	

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Tuesday,
June 28, 2005

Main Hearing Room
International Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Stephen Koplan, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

COMMISSIONER STEPHEN KOPLAN
VICE CHAIRMAN DEANNA TANNER OKUN
COMMISSIONER MARCIA E. MILLER
COMMISSIONER JENNIFER A. HILLMAN
COMMISSIONER DANIEL R. PEARSON

APPEARANCES: (Continued)

Staff:

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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, and Rio Grande Valley Sugar Growers, Inc.:

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APPEARANCES: (Continued)

On behalf of United Sugars Corporation:

JOHN DOXSIE
President, United Sugars Corporation

On behalf of Amalgamated Sugar Company LLC:

RALPH BURTON
President and CEO, Amalgamated Sugar Company LLC

On behalf of American Sugar Beet Growers Association and Big Horn Basin Beet Growers Association:

TERRY JONES
Beet Grower, Powell, New York
President, American Sugar Beet Growers Association
Vice President, Big Horn Basin Beet Growers Association

On behalf of American Cane Sugar League:

JESSIE BREAUX
Cane Farmer, Franklin, Louisiana
Vice PR, American Sugar Cane League

On behalf of American Sugar Alliance:

JACK RONEY
Director, Economics & Policy Analysis
American Sugar Alliance

On behalf of the CapAnalysis Group:

SUSAN MANNING
Vice Chairman, CapAnalysis Group

I N D E X

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN KOPLAN: Good morning.

On behalf of the United States International Trade Commission, I welcome you to this hearing on Investigation Nos. 104-TAA-7, Second Review, and AA1921-198-200, involving sugar from the European Union and sugar from Belgium, France and Germany.

The purpose of these second five-year review investigations is 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 to an industry in the United States within an reasonably foreseeable time.

Notice of investigation for this hearing, list of witnesses and transcript order forms are available at the secretary's desk.

I understand the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary.

As all written material will be entered in full into the record, it need not be read to us at this time.

The parties are reminded to give any prepared testimony to the secretary. Do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the secretary before presenting testimony.

Finally, if you will be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Mr. Chairman.

CHAIRMAN KOPLAN: Very well. Let us proceed with the opening remarks.

MS. ABBOTT: Opening remarks in opposition to revocation of orders will be by Juliana M. Cofrancesco, Howrey Simon Arnold & White.

CHAIRMAN KOPLAN: Good morning.

MS. COFRANCESCO: Good morning. My name is Juliana Cofrancesco of the Howrey law firm. I am joined by my colleagues Vanessa Forsythe and John Bruce of my firm and co-counsel at Arent Fox, Matt Clark and Keith Marino. I am also joined this morning by our economist, Dr. Susan Manning.

We are very appreciative of the extensive time and effort that's been invested by the commission staff in analyzing and preparing the pre-hearing report and we thank the commission for the opportunity to have our witnesses appear before you this morning.

This morning you will hear from our panel of witnesses with their boots on the ground in the farms and running the factories across America. They represent the full range of the U.S. sugar producing industry, including sugar cane millers and refiners, sugarbeet processors, all the way down to growers of sugar cane and sugarbeets.

These witnesses will each speak to the specific conditions and challenges that are facing each of these sectors and segments of the U.S. sugar industry and they will try to explain the reasons why the E.U. trade remedy orders should remain in place.

The testimony presented by these witnesses will go directly to the critical elements that inform your statutory analysis.

The testimony will show that the E.U. continues today to maintain the same policies that it had in place five years ago and those policies foster the export engine of the E.U. The addition of the new member states to the E.U. has only increased the production and export capability.

Although there were some changes to the E.U. programs proposed last week, our witnesses testifying today who understand this believe that the proposals for change are nothing more than that, just proposals. They are highly controversial, they are publicly opposed by many member states and their constituencies and even it appears that the E.U. parliament is expressing concerns. It would be speculative indeed for anyone to guess what program changes might occur some time in the future.

The fact remains that the E.U. is the world's second largest sugar producer and exporter, as was shown in the staff report, and the E.U. has significant economic potential to direct its dumped and subsidized exports to the United States market.

The testimony will also demonstrate that the U.S. industry is more vulnerable today than it was in the prior sunset review.

The witnesses you will hear from today will explain the factors that are behind the statistics that are reported in the pre-hearing staff report and will explain the vulnerability of the industry.

The testimony will also show a significant change in the change in the conditions of competition since the last sunset review, which is the substantial increase in cooperative ownership of the processing and refining facilities, which has made the industry more vulnerable.

Farmers have had to make substantial capital investments to acquire these facilities and with high capital costs and narrow margins small changes in price will quickly turn operating profits of these co-ops into operating losses, which in turn affects the operations of the farmers, which you will hear about from our witnesses today

You will hear testimony about the fact that the domestic sugar market is in a state of oversupply and that there have been periods of low market prices and increasing costs and that those have created conditions of significant economic uncertainty for the industry.

You will also hear testimony that specifically describes how the industry will be injured and how the E.U. imports, if left unregulated, if the orders are lifted, will trigger off domestic marketing allotments and disrupt the market and potentially cause loan forfeitures and government costs.

All of these facts and testimony that you will hear will demonstrate that the U.S. sugar industry is more vulnerable to dumped and subsidized E.U. sugar exports than it was six years ago and that the industry is likely to suffer material injury in the foreseeable future if the orders are revoked.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Madam Secretary, have the witnesses been sworn?

MS. ABBOTT: Yes, Mr. Chairman.

CHAIRMAN KOPLAN: You may proceed with your direct presentation.

MS. COFRANCESCO: Thank you.

Our first witness is Jack Roney, who is the Director of Economics and Policy Analysis at the American Sugar Alliance.

CHAIRMAN KOPLAN: Welcome back.

MR. RONEY: Thank you, Commissioner and Commissioners. I am Jack Roney, Chief Economist at the American Sugar Alliance, the national coalition of the growers, processors and refiners of sugarbeets and sugar canes. We urge that you retain the antidumping and countervailing duty orders on sugar from the E.U.

I would like to focus on three reasons the U.S. sugar industry would be materially injured if those orders were to be lifted.

Number one: The E.U. is a larger threat as an exporter of dumped and subsidized sugar now than it was in 1999 and is likely to remain so.

Yes, sir?

CHAIRMAN KOPLAN: If you could move your microphone a bit closer.

MR. RONEY: There are a number of reasons the E.U. remains a formidable to send subsidized and dumped exports to the United States absent U.S. antidumping and countervailing duty orders.

A. Enlargement has increased the E.U. production surplus. The access of ten additional countries to the E.U. in 2004 transforming the E.U. 15 into the E.U. 25 has added more than 4 million tons to the E.U.'s sugar production capacity.

E.U. sugar production in 2004 was 17 million tons as the E.U. 15. Production of the E.U. 25 this year is estimated at nearly 22 million tons. That's four and a half million tons more than the E.U. 15 had produced.

A further indication of unusually large E.U. sugar surpluses since the enlargement was the development in February 2005 when the E.U. purchased 86,000 metric tons of sugar through its intervention system, the first time in 20 years intervention purchases had occurred.

USDA reports that 500,000 tons of surplus E.U. sugar could end up in intervention, eventually to be disposed of on the world market.

B. EBA imports increase E.U. supplies. The E.U. is implementing a phase-out of sugar import tariffs on sugar from the least developed countries under there Everything But Arms, or EBA, initiative. The E.U. commission estimates that duty-free imports into the E.U. from these countries will amount to 2.2 to 3.5 million metric tons by 2013. This additional 2 to 3 million tons will further add to the E.U.'s exportable surplus.

C. E.U. sugar reforms are only proposed. Though the E.U. commission has proposed potentially significant reform of the E.U. sugar regime, these reforms have by no means been enacted and are strongly opposed.

The July 2004 proposal would reduce the E.U. sugar price by about a third, but would reduce E.U. sugar production only by about 16 percent. Growers would receive direct payments to help compensate for the price reduction. The plan did not propose to eliminate exports.

The proposal attracted strong opposition from within the E.U. and without. Ten of the E.U. 25 countries have officially protested against the 2004 proposal. In addition, developing country opposition to the proposed price cuts is widespread among the Afghan, Caribbean and Pacific or ACP countries that are traditional E.U. sugar import quota holders.

The E.U. commission's new proposal of last week, while more severe than last July's, is still just that, a proposal. It is costly with compensation payments estimated at nearly $2 billion the first year alone and no doubt will be opposed by at least as many E.U. and ACP countries as the more moderate 2004 proposal. In fact, this opposition is already emerging. This plan, too, does not propose to eliminate E.U. exports.

Though reform proposals if enacted may affect E.U. sugar production exports in the long run, it appears highly unlikely that there will be any significant decline in the threat of subsidized E.U. sugar exports in the next few years.

D. E.U. prices are still high and will remain so. E.U. wholesale refined sugar prices averaged about 42 cents per pound in 2004. The U.S. wholesale refined sugar price averaged only 23 and a half cents per pound. A one-third reduction in the

E.U. refined sugar intervention price would reduce that price at the end of whatever transition period is decided upon only to 28 cents per pound, still well above U.S. levels.

To summarize on this point, with increased production and imports contributing to a larger exportable surplus, with no certain prospects for reform and with continued high prices, subsidized exports of E.U. sugar remain a potent threat to the U.S. sugar industry.

Reason number two for our concern. Years of low prices have made the U.S. sugar industry more vulnerable to market price declines from dumped and subsidized imports from the E.U.

Over the past two decades, nominal raw cane and refined sugar prices have been flat or slightly lower. General price inflation of 89 percent since 1985, the last time there was an increase in the U.S. support price, has severely eroded the real prices sugar producers receive for their product.

These charts depict the declining nominal and real raw cane and refined beet sugar prices since 1985.

The next charts focus on price behavior since 1996 relative to loan forfeiture ranges. In

2000, imports of just 300,000 or 400,000 tons in excess of U.S. market needs resulted in the near collapse of U.S. sugar prices. Raw cane and refined beet prices fell by 30 percent from year earlier levels. Sugar purchased by or forfeited to the government totaled over 1 million tons at significant cost to taxpayers.

The sustained period of low prices caused enormous restructuring in the industry. Other industry representatives will testify regarding the widespread closure of beet and cane mills and refineries. A third of all those operating in 1996 have shut down. And you will hear testimony regarding the increased vertical integration in the industry.

As this chart shows, the grower-owned share of U.S. sugar refining capacity has doubled from 36 percent in 1999 to 74 percent in 2004. Growers have organized cooperatively, borrowed capital and purchased beet processing and cane refining operations that otherwise would have closed because of lack of profitability in the industry. Their increased debt has made the growers all the more vulnerable to modest fluctuations in market price.

The 2002 Farm Bill restored USDA's authority to balance supply and demand by imposing domestic marketing allotments and prices recovered during 2002 and 2003. Lower prices since then, however, generally within the loan forfeiture range, have further stressed the industry and caused 40,000 short tons of sugar loan forfeitures in 2004.

To summarize this point, with the industry's increased price sensitivity, even a modest price decline caused by dumped and subsidized E.U. sugar exports could endanger U.S. sugar processing and refining operations, the majority of them farmer-owned.

Reason number three for our concern. The restoration of the marketing allotment provision in the 2002 Farm Bill better facilitates operation of a no-cost sugar policy, but excessive imports from the E.U. would trigger off the allotments, disrupt the market and potentially cause sugar loan forfeitures and government costs. In the 2002 Farm Bill, Congress restored the Secretary of Agriculture's authority to balance the domestic market when necessary by imposing domestic marketing allotments. This authority existed in the '90 Farm Bill but was removed in the '96 Farm Bill.

The U.S. imported the quantities of sugar it is required to under WTO and NAFTA commitments, but was not able to restrict sales of domestic sugar to make room for the mandatory imports.

Under the 2002 Farm Bill, USDA is required to forecast consumption in the coming year, subtract required imports, allow for reasonable ending stocks, and establish an overall allotment quantity or OAQ, the amount of domestic sugar that may be marketed for food use.

If production exceeds the OAQ, domestic producers must store the excess at their own expense to balance the market until that sugar is needed. American sugar producers are currently withholding about 500,000 tons of excess sugar from the market and storing this sugar at their own expense.

American producers are in effect residual suppliers of their own market, lined up behind foreign quota holding countries.

When U.S. consumption declined in 2003 and 2004 from 2002 levels, U.S. producers alone bore the impact. Foreign access to the U.S. market remains at WTO and NAFTA guaranteed levels. U.S. allotment quantities were adjusted downward to offset the decreased demand. U.S. producers ended up storing large quantities of sugar.

When the U.S. market is oversupplied, as it is now, every unneeded ton of sugar we import is another ton American sugar producers must either store or reduce their own production to accommodate. Excessive imports can also trigger off USDA's ability to impose marketing allotments.

Congress specified in the 2002 Farm Bill that marketing allotments would be triggered off if imports rose about one and a half million short tons, which is the total of U.S. import commitments under the WTO, one-quarter of a million tons from 40 countries, and the NAFTA, one-quarter of a million tons of Mexican surplus production.

Congress essentially was sending a message that the required import amount, about 15 percent of U.S. sugar consumption, was enough. Imports could grow if U.S. consumption growth outstrips U.S. production growth or if there is a crop shortfall, but U.S. producers should not have to cede larger minimum shares of their market to foreign producers, particularly during a time of increased concern about U.S. food security.

To summarize this point, in a year when U.S. sugar imports are already at the one and a half ton minimum, marketing allotments are in place and domestic sugar is blocked from sale, even small quantities of imports of dumped and subsidized E.U. sugar could trigger off marketing allotments and severely disrupt the domestic sugar market. The resulting price decline would harm American sugar producers and likely cause massive loan forfeitures and government costs.

In conclusion, Mr. Chairman and members of the commission, the E.U. is a more potent threat to dumped subsidized sugar now than it was six years ago and the U.S. sugar industry and policy are more vulnerable to dumped and subsidized sugar than six years ago. The U.S. sugar industry therefore urges the commission to retain the antidumping and countervailing duty orders on sugar from the E.U.

Thank you.

MR. CARPENTER: Thank you, Mr. Roney.

MS. COFRANCESCO: Thanks, Jack.

Our next witness is Dr. Margaret Blamberg, who is the Executive Director of the American Cane Sugar Refiners Association.

MS. BLAMBERG: Good morning. I am Margaret Blamberg and I am Executive Director of the American Cane Sugar Refiners Association. Prior to this position, I worked for the American Sugar Refining Company, better known as Domino Sugar, and in total

I've been part of the domestic sugar industry for 27 years. I can speak from personal experience that the U.S. market is more difficult than it has been in many years, which underlines the importance of retaining the countervailing and antidumping duty orders at issue.

The U.S. cane sugar refining industry has been under tremendous pressure and that is illustrated by the fact that in the past two years two major refineries have shut down permanently. In 2003, Imperial Sugar Company closed their refinery in Sugarland, Texas. The following year, in January of 2004, the Domino refinery in Brooklyn was closed.

These two refineries had been in operation together for over two centuries and, in fact, the Domino refinery in Brooklyn was the oldest in the country, having first begun operations in 1856. When these two refineries closed, it took 20 percent of U.S. refining capacity out of production.

At the same time, between 2000 and 2005, no less than nine cane sugar mills were closed. These closures occurred in Florida, Louisiana, and Hawaii. The mill closures, those nine mills, represented 30 percent of the milling industry. Therefore, the commission should understand that it is reviewing an industry that has seen a staggering amount of change in a very short period of time.

The industry has tried to respond to these changes in ways to make ourselves as efficient as possible. We have seen vertical integration in the cane industry rise from only 15 percent in the year 2000 to 60 percent today. Nevertheless, current market conditions make the industry still over-capacitized and additional closures could occur.

Let me describe some of the unfavorable market conditions. First of all, we have been faced in recent years by increased refined sugar imports. The WTO tariff rate quota for refined sugar has doubled in the past five years.

Secondly, despite import quotas, we have seen several products imported outside of the quotas which circumvent them. These circumventions most notably include the importation of a product called thick beet juice and another cane sugar molasses, both of which are then processed in such a way that refined sugar is extracted.

Thirdly, we have seen a dramatic increase in the importation of sugar-containing manufactured products such as confectionery products, baked goods and drink mixes and we expect that these categories of imports are going to continue to rise. It is important to note that the underlying primary reason why these sweetened manufactured goods are increasing in terms of their entry into the United States is wage differentials, not different prices for sugar around the world, because the sugar content of these products is very small. The sugar industry is literally under siege because we have chosen to pay our employees reasonable wages.

Besides the threat from refined sugar imports, we also have seen a number of domestic life style changes that have suppressed sugar demand. Let me cite first of all an increase in the use of artificial sweeteners, in particular the new sweetener sucralose with the brand name Splenda and blends of various artificial sweeteners.

Further, I'm sure all of us have heard of the low carb diet craze. Many people in this room may even have tried it. Well, sugar is a simple carbohydrate and sugar demand has fallen off because of this diet craze. Even though there are numerous scientific studies out there that show that obesity is not caused by sugar consumption, that is very often the popular perception and sugar demand has suffered by these accusations.

There is significant potential for increased imports from the European Union if these orders are lifted. Let me describe a number of ways in which this threat has become more pronounced.

First of all, the E.U.'s exportable surplus grows larger every year and it has been forecast that in the coming crop year exports will reach an all time high. This is despite the proposals that have been made and that were announced just last week of various reforms within the regime. There are already a number of governments within the E.U. countries that are seeking to revise or to neuter these proposals.

Additionally, the changes if implemented would come in gradually, stretching all the way out to the year 2013.

The current system that WTO and E.U. officials have both publicly stated is highly distorted is not going anywhere any time soon. The E.U. will continue to subsidize millions of tons of sugar exports.

But even putting aside these proposals, in the nearer term, increased E.U. exports will probably happen.

First of all, the reform s do not address exports in any meaningful way. By design, the E.U.

sugar regime and its operation under the cap requires excess surplus to be removed from the E.U. and dumped onto the world market. The process and the resulting injury of non-E.U. entities are not seriously altered by the proposals. The E.U. will continue to clear its market of oversupply and will continue distort the world market as it has done for over three decades so far.

Secondly, the E.U. is carrying larger stocks of refined sugar than it has ever carried before. Besides that, the enlargement of the E.U. has brought in with the ten new members a number of high sugar producing countries, most notably Poland, which as one country alone has increased European sugar production by over 10 percent.

The E.U. under various particular quota schemes has granted quotas to Brazil and to Cuba, two big raw sugar producers, which increases the oversupply and their need to export.

Similarly, duty-free treatment has been granted to the Balkan countries for the movement of sugar into the E.U.

Finally, the Everything But Arms agreement between the E.U. and the 25 least developed countries in the world will significantly increase the duty-free importation of sugar from those countries and most of those countries' economies rest on tropical commodities, notably sugar. There is no way for the E.U. market not to be oversupplied as commitments under the EBA are implemented.

In conclusion, this is a very difficult time to be in the sugar business in the United States. I believe by all objective indicia that the industry is more vulnerable today than it was five years ago when the commission correctly voted to keep the orders in place. With the additional pressures faced by U.S. producers and the fact that the E.U. has not revised its admittedly distorted system of subsidizing its producers and then dumping the surplus, the commission should reach the same conclusion in these reviews. The orders are important and they should be retained.

Thank you.

MS. COFRANCESCO: Thanks, Margaret.

Our next witness is John Doxsie.

MR. DOXSIE: Thank you and good morning. I am John Doxsie and I am President of the United Sugars Corporation. United Sugars is the largest marketer of industrial and consumer sugar in the United States, accounting for approximately 30 percent of the sugar sold in the country. Our sugar is distributed across the nation as shown on the map that you see on the screen through our distribution system. United Sugars is a cooperative owned by the American Crystal Sugar Company, Minn-Dak Farmers Cooperative, and the United States Sugar Company.

American Crystal Sugar Company and Minn-Dak Farmers Cooperative are farmer-owned beet processors located in Minnesota and North Dakota, respectively. U.S. Sugar Company grows and processes refined cane sugar in Florida.

My firm and our member organizations firmly believe that revocation of these antidumping and countervailing duty orders would cause significant material and sustainable injury to the domestic sugar producing industry in the United States.

United Sugars was formed in 1994 as a cooperative marketing pool to collectively market, sell and distribute sugar on behalf of its member growing cooperatives. The revenues from the sale of sugar ultimately become farm income to our cooperative farm members after accounting for the cost of refining, marketing and selling the sugar.

United Sugars sells on a national market, as you can see from the screen. Although our sugar is produced in a limited number of states, our distribution network extends throughout the United States. We are acutely aware of the dynamics of selling sugar throughout the U.S. We sell on a delivered price basis. If a sugar marketer can negotiate favorable freight rates, sugar can compete anywhere in the U.S.

Market competition often dictates the seller, like United Sugars, must absorb the cost of transportation in order to capture a sale to a national account.

Industrial users of sugar, as well as retail buyers, are extremely price-sensitive. Price is the most important factor in making a sale. Quality, handling and delivery terms are essentially uniform throughout the United States. Imports, regardless of their source, compete on an equal basis in the U.S. due to the fungible commodity nature of sugar.

As the Department of Commerce has determined, sugar from Belgium, France and Germany is being sold at dumped prices and sugar from the European Union is sold at highly subsidized prices. Very small volumes of unfairly traded low priced imports would immediately affect market prices in the U.S. due to the highly price-sensitive nature of sugar prices in this country.

I can attest to my own experience in selling sugar on a day-to-day basis. Penny differences in price can lead to making a sale or not making a sale. Small quantities of sugar sold at a few cents less than the market price can affect the sale of large quantities of sugar. In both the retail and industrial market, we face very sophisticated sugar buyers who know the market inside and out and they play sugar sellers off against one another.

These buyers follow the market closely and exercise buying power to achieve the best prices in the marketplace. If sugar is available in the market at a lower price, our customers will know it and they will factor that into their negotiations.

One of our most significant sources of competition in recent years has been the increasing amount of sugar-containing products entering the U.S. Several large sugar buyers decided to locate their production plants outside the U.S. Although some of these buyers have cited lower sugar prices outside the country as a factor in their outsourcing decision, as you see from the chart on the screen, the data indicates that sugar is only one and not a leading component that affects production costs for these buyers.

As a consequence, demand for sugar in the U.S. has declined in recent years, exerting additional pressure on an already fragile, highly vulnerable sugar industry.

We also face competition from sugar substitutes. In the past, consumers and industrial customers made the choice of using a refined sugar substitute. Some substitution was made for cost reasons, like high fructose corn syrup, while other switching occurred due to the desire for low calorie products such as Equal or Sweet'N Low.

Converting to sugar substitutes is often a technical problem, requiring complex reformulation of our buyers' end products. As a result of this reformulation, switching to make a lower calorie product has been slower to occur because the substitutes often do not yield an acceptable confection or baked good.

With the introduction of Splenda, a new high intensity sweetener also known as sucralose, produced by Tate & Lyle, many of these concerns in the confectionery and baking industry have been or will be alleviated. It's going to add additional competition for sugar.

Critics of the U.S. sugar industry assert and allege that sugar prices in the rest of the world are a fraction of the price in the U.S. market. As a marketer of sugar, I would like to take issue with that comparison.

Sugar in the so-called world market constitutes excess sugar that is essentially dumped on the world market. That is, this sugar far exceeds the demand that exists in the home production market. The E.U. is a great contributor to this dumped world market. The WTO appellate body has confirmed that excess subsidized sugar produced in the E.U. contributes to artificially lowering the price of sugar in world markets.

As this graphic shows, the retail price of sugar in Belgium, France, Germany and the E.U. as a whole are significantly above U.S. prices, despite market allotments in the U.S. and TRQs that attempt to control the supply of sugar in this country. Sugar prices can and do fall to the level at which forfeitures may occur.

Very small amounts of excess sugar can throw this industry into a serious adverse imbalance of supply and demand, as we experienced to a degree in 2000. Any additional quantities of subsidized and dumped sugar from the E.U. would adversely exacerbate an already vulnerable sugar market.

We ask that this commission continue the antidumping orders against Belgium, France and Germany and retain the countervailing duty order against the European Union, all of which are critical in helping this industry survive.

Thank you.

MS. COFRANCESCO: Thank you, John.

Our next witness is Ralph Burton.

MR. BURTON: Good morning. My name is Ralph Burton and I am President and CEO of the Amalgamated Sugar Company headquarters in Boise, Idaho. We have three factories located in Twin Falls, Nampa and Paul, Idaho. As a matter of fact, our Paul, Idaho plant is North America's largest sugarbeet processing facility. During our peak season, which is when we're harvesting and processing, we will employ about 800 people and we take beets from about 500 farmers and convert it into a value-added product that only has 15 calories per level teaspoon.

We're owned by the farmers. We're a cooperative. The Snake River Sugar Company is our parent company, and that group of men felt so strongly that sugarbeets were important to their continued existence that they took it upon themselves in 1996 to beg, borrow or steal from relatives or banks about $80 million of their own money so they could buy shares in this cooperative and then they obligated themselves to banks and to the seller for another $180 million so that they could guarantee themselves an opportunity and a place to bring their sugarbeets.

The issues presented in this hearing are of great concern to the beet sugar industry. Keeping antidumping and countervailing duties in place is critical to the survival of our industry.

This industry is particularly vulnerable at this particular time and I want to reinforce what you have heard thus far in testimony and charts that would show that sugar prices are teetering perilously close to forfeiture levels.

You will recall just a few years ago in 2000-2001, prices were such that nearly 1 million tons of sugar was forfeited to the U.S. Government as payment in full for loans that were taken by processors from the CCC. The program was initiated and designed so this wouldn't happen. The idea was to allow sugar companies to borrow money from the CCC, put the refined sugar under loan as collateral and then pay back these loans with interest so that the government earned a little money, while at the same time maintaining an inventory level that would cause prices to be at such a level that processors and producers could make a profit.

Since the 2000-2001 debacle, prices have rebounded slightly, but processors continue to forfeit sugar. Last year, Amalgamated Sugar and one other processor forfeited nearly 40,000 tons of sugar to the USDA.

Amalgamated's decision to forfeit sugar was driven by economics. When our loans came due, the better sale was to the government. Anticipated market prices were such that we could make more money by selling the sugar to the government and so we were left with no economic choice but to forfeit sugar.

We also wanted to send the USDA a message that we were in dire need of some help. Now, 24,000 tons is probably an annoyance, it was probably an annoyance to the USDA, but it was our only method of communicating.

Production costs for sugarbeet processors have increased steadily, particularly in the areas of energy, labor, freight, and associated medical and pension costs. Coal, coke and lime rock, natural gas, have all increased significantly. I'm told that our coke and natural gas costs have gone up nearly

30 percent.

We have some long-term coal contracts which helps us keep our energy costs down and I do feel bad for those processors who are totally dependent on natural gas. Pacific Northwest Sugar Company, a northwest processor, now no longer in business, was caught in the energy fiasco of 2000-2001 and that was part of their demise.

We as processors are unable to pass these increased costs on to users.

Environmental-related capital expenditures which generate little or no return on investment are being required by the various states and departments of environmental quality. We want to be stewards of the land. We like clean air, we like clean water, but compliance with these regulations are expensive. As a matter of fact, at our Nampa factory, we have commissioned $18 million worth of capital by putting in steam dryers to ensure that our particulate matter is reduced to acceptable levels.

The result of all these expenditures mean that our processors and growers are living on razor thin margins or farming their equity. Increasing costs and low domestic prices, the result of oversupply, have caused some beet processors to exit the industry and close processing plants.

Amalgamated Sugar was not immune to this trauma. In past years, prior to the 2002 Farm Bill, the sugar industry was volume driven. That is, we survived by running as much through our factories as we could. We were wall to wall. And with the 2002 Farm Bill, the USDA brought in marketing allocations. It's incumbent upon to change their rationale from being volume driven to being market driving and that's a painful transition.

We accepted these allocations in the hope that by controlling supply we would have improved prices. This year, Amalgamated Sugar Company closed down and ceased to process sugarbeets at its Nyssa, Oregon plant. Now, this is was one of the largest plants in the United States. The layoff there has been -- well, it only affected -- when I say only, it affected 500 people.

It has been characterized as being similar to laying off 50,000 people in a city the size of Portland. Nyssa is a small community, it's a rural community. Most of our sugarbeet factories are in rural communities and they are the lifeblood of those cities. Thirty-one hundred people in Nyssa and they lost 500 jobs.

Those are good paying jobs. They're not flipping burgers. They're people that are skilled, they're welders, they're pipefitters. They pay enough so that people can buy houses, buy an occasional car, educate their children, buy a home.

Now, this decision had nothing to do with the quality of operations or the management of the factory, it was not a schlocky operation. It was a good operation. As a matter of fact, as we measure our campaign, Nyssa was our top operating factory this year as we measure operating results, slice, sugar content, all of the things that go into running a good operation. But it happened to be as we analyzed it the most costly plant to operate, given the volume that was required.

So the key issues from a beet processor's perspective are the domestic beet sugar industry has been a viable sector of the farm economy for years. It's a homegrown business. It's carried the farm in the early 1900s. A beet contract meant financing for a grower. From a national food security aspect, I believe a domestic grown food supply is more secure than a foreign grown food supply.

The survival of our industry depends on maintaining our access to a balanced domestic market and the ability to generate a nominal profit. Our share of that market has been eroding and will continue to erode by the factors mentioned by Dr. Blamberg and others.

I think it would be a crime for us to have shut down a factory, reduced our acreage to try to bring ourselves into a balance with our market and have that difference that we have there be backfilled by foreign imports. I think that would be criminal to allow that to happen.

So as we see it, the revocation of these orders would increase the pressure that's already been placed on us by our own trade policies. For decades, Europe has laid lavish subsidies on its high cost producers, allowing them to dump their excess production on an already distorted world market at less than their cost of production.

We really don't need any more sugar, from Europe or from anyone else at any cost. As I mentioned, to allow more sugar into an already over-supplied market would place the entire domestic industry in peril.

Thank you for your time.

MS. COFRANCESCO: Thanks, Ralph.

Our next witness is Steve Bearden.

MR. BEARDEN: Good morning. My name is Steve Bearden. I am President and CEO of the Rio Grande Valley Sugar Growers and I am here testifying on behalf of the U.S. sugar cane millers. Prior to my current position, I worked for the Texas Department of Agriculture and before that I was a farmer growing sugar cane for 20 years.

I am here today to urge the commission not to revoke the antidumping and countervailing duty orders that are protecting the U.S. sugar industry from being materially harmed by dumped and subsidized E.U. sugar.

Rio Grande Valley Sugar Growers is a sugar cane milling cooperative owned by its Texas sugar cane growers. We are the only sugar cane mill in Texas and the only cane sugar refinery in Texas operated by Imperial closed in 2003.

Sugar cane millers are operating on the brink of financial ruin. Just a one cent per pound change in the price of sugar can have a devastating effect on our margins.

We also are facing higher transportation costs because of the high cost of fuel. Since we have no control over the price of sugar and over the cost of fuel, we are working hard to improve our financial situation by reducing our other costs. To that end, sugar cane millers are consolidating around the country in order to maximize production economies of scale. Jobs are being cut as a result of this consolidation. We are also making substantial investments in capital improvements in order to improve efficiency and productivity.

At the Rio Grande Valley Sugar Growers, we are expanding our million operation capacity from 10,000 tons per day to 15,000 tons per day over the next seven to ten years. The purpose for this expansion is not to produce more sugar. It is to mill sugar cane faster in order to reduce our variable costs and protect our business from adverse effects of imports, weather and other variables beyond our control.

Each day of grinding time costs us approximately $80,000 in variable costs. By milling sugar cane faster and reducing the grinding time we can say $80,000 per day. Also, we can reduce the amount of time that outside forces can adversely impact our business.

We also share with the other crop farmers the constant battle with freezes, rains, floods and droughts. Our goal, then, in implementing these efficiencies is to minimize the physical impact of these forces on our crop by getting the sugar cane harvested and milled into raw sugar as soon as possible.

As an industry, we are committed to reducing costs, but it takes money to reduce costs. For Rio Grande Valley Sugar Growers, we are implementing a new transportation system this year that will allow us to carry more sugar cane from the field to the factory with each truck; a new set of centrificals that will allow us to recover two to three pounds more sugar per ton of cane; a new water cooling tower that helps in all of this process, along with a clarified juice heater; all of this costing us over $8.5 million. These are just a few of the improvements we are making this year and are willing to make in order to reduce our costs and improve our efficiency.

Although we are very efficient by world standards, these investments we have planned over the next seven to ten years will make us even more efficient and put us in a position to better compete with additional volumes of fairly traded imported sugar.

E.U. sugar, however, is not fairly traded and we cannot efficiently compete with sugar that is sold at dumped and subsidized prices. We need the commission's continued helped. Dumped and subsidized imports create enormous instability in the sugar market, jeopardizing our ability to recover our costs and adversely affecting the ability to obtain loans in order to buy the equipment necessary to continue to reduce our costs. These orders, I believe, prevent even more dumped and subsidized sugar from entering the United States.

On behalf of the sugar cane million operators and their growers, I urge the commission to retain these orders.

Thank you.

MS. COFRANCESCO: Thank you, Steve.

Our next witness is Jessie Breaux.

MR. BREAUX: Mr. Chairman, commissioners, good morning. My name is Jessie Breaux. I'm a fourth generation sugar cane farmer from Franklin, Louisiana. I have a 2000-acre farming operation; 400 acres are the same acreage my great-grandfather farmed until 1917.

MR. CARPENTER: Mr. Breaux, if you could just move the microphone a bit closer to yourself? Thank you.

MR. BREAUX: Thank you. I'm testifying

today on behalf of the U.S. sugar cane growers. My family has been in the sugar cane business for many years.

The land I farm is in the parish of St. Mary. Due to weather conditions and pest problems, no other crop can be grown for our livelihood. Several farmers in our area have experimented with other crops such as corn, soy beans and peanuts. Unfortunately, these farmers soon realized after many financial hardships that the area was only suited for sugar cane. For this reason, our livelihood depends on sugar cane.

Since these orders went into effect, we have been protected from the price depressing effects of dumped and subsidized sugar imports from the E.U. Thanks to these orders, we face many challenges in growing sugar cane that we cannot control and which make us especially vulnerable to unfairly traded sugar. For the past three years, Mother Nature has not been kind. We have had too much rain at times and, at other times, we have had droughts when we needed rain, both leading to poor crops.

In 2002, there were two hurricanes within a week of each other at the beginning of harvest which we call grinding. The rains continued through

December. This wave of bad weather has had a continuing effect on my crops even today, three years later, due to the deep ruts cutting through the fields during harvest which affected the stalk growth.

The following year, from June through August, there was too much rain, which affected both the number of stalks and yield. Last year, there was too much rain during the growing season, which was followed by drought.

Our harvest season begins in late September and lasts for approximately 100 days. During the harvest, we finally received some rain, but the cane stopped growing. Because of the record temperatures in November, we had a significant reduction in sugar content per acre.

As farmers, we accept this as what Mother Nature has dealt us. These are some of the conditions that make us vulnerable to the E.U. imports that we are here to talk about today.

Even when the weather works in our favor, we still face other challenges. Most farmers in the area anticipate a good crop this year. If we do have a good crop, we are now concerned that we will not be able to sell our whole crop because of marketing allotments. We can only sell the amount that we are allotted to sell and the remainder has to be stored at our expense.

Financing a farming operation under these conditions becomes very tight and problems will begin to compound. Cane farmers accumulate a lot of debt throughout the course of a crop year, which would normally get paid off during the harvest season. Bankers do not want to see farmers not being able to sell sugar because stored sugar does not generate cash flow to repay our operating loans, much less buy or repair equipment and even buy fuel.

I deliver my sugar cane to the St. Mary sugar cooperative mill which was established in 1946. If the raw sugar from my sugar cane and other farmers' sugar cane cannot be sold, this will have an adverse effect on St. Mary's ability to survive.

You cannot imagine how difficult it is when the cost of running your farm, buying equipment, and meeting the day-to-day expenses such as fuel are constantly rising and yet you are receiving basically the same price for your sugar for the past 23 years.

Our only means of making more profit under these conditions is to constantly find ways to reduce costs. Generally speaking, this means investing very limited funds in more efficient equipment. These investments are not making us more profitable, rather, they are just keeping us from going under.

We constantly are being hit with more and more imports and the last thing the sugar industry needs is to have dumped and subsidized sugar coming from Europe.

It is well known that E.U. farmers are heavily subsidized. With those subsidies, they unload the low-cost sugar into any target of opportunity market and they certainly can do so in the U.S. market at a price that is way below their cost of production and that likely would not even cover the cost of plowing, fertilizing the fields much less planting, tending and harvesting the crops.

They have talked before and now are talking again about fixing and reforming this huge sugar subsidy system. It has never happened and all we have now is more talk. I cannot survive this, nor can other sugar cane growers survive if these dumped and subsidized E.U. imports were to come into our market.

I ask the commission to continue these orders as long as the E.U. ships dumped and subsidized sugar into the world market and has the ability to ship these same exports into our market.

Thank you.

MS. COFRANCESCO: Thank you.

Our next witness is Terry Jones.

MR. JONES: Good morning. My name is Terry Jones. I am President of the American Sugar Beet Growers Association and Vice President of the Big Horn Basin Beet Growers Association in Wyoming. I am a fifth generation grower in Powell, Wyoming. I farm 275 acres of sugarbeets. My sugarbeet production is about the average enterprise size of a sugarbeet farm in the United States.

In my roles as both a sugarbeet farmer and the president of the American Sugarbeet Growers association, I know personally the vulnerable position of sugarbeet farmers in the United States. Sugarbeet farmers are in danger of losing their livelihood for four main reasons.

First, sugarbeet growers in Wyoming have had to had incur significant financial obligations because we have been forced to invest in acquiring the processing plants that can put our crops into refined sugar.

As prices continued to dip lower in past years, independent processors such as Tate & Lyle in my area exited the market and we were left with no alternative market for our sugarbeets. 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.

Our grower-owned cooperative now sells the sugar processed in our farmer-owned facilities in the U.S. market.

Our situation in Wyoming is not unique. In the last five or more years, a great many sugarbeet growers have formed cooperatives to purchase their former sugarbeet companies in order to keep their farms running.

Since the last review, grower-owned processor facilities went from 65 percent to 94 percent of total beet processing.

It's been a struggle, but it has become the only way for sugarbeet farmers like me to be able to make a living on the land that supported my father, my grandfather and ancestors that settled the land in Wyoming.

For beet farmers, rotational crops are raised primarily to enrich the soil and to reduce or eliminate soil-borne diseases. At any given point in time, more than one-half of my acreage is, by necessity, in rotation of crops. In my area, these crops are malt, barley and edible dry beans. These crops have a lower return than sugarbeets.

Water also is an issue. Crop diversification is needed to effectively utilize the water distribution system.

Sugarbeets have only one end use: the production of refined sugar. There are no alternative uses. Specialized equipment such as defoliators that remove the leaves and harvesters that dig up the mature beets are required to harvest the sugarbeets. This equipment is so specialized that it has no other use and is expensive to finance. This equipment requires bigger, more powerful, more expensive tractors than are needed for other crops.

Due to the nature of sugarbeets, the facilities that process the beets into refined sugar must be located close to the sugarbeet farm. In 2002, when the factory where my sugarbeets are processed was in danger of shutting down, farmers in my area and in three other states pooled our resources to form the Western Sugar Cooperative. We did so in order to assure that we would have plants to process our sugarbeet crop so that we could protect our assets, both short-term, such as our equipment investment, and long-term, such as our land and cooperative stock value.

We needed to ensure our economic viability by owning a processing plant that would not shut down due to unrelated corporate stockholder demands.

My particular cooperative of farmer owners has six factories that process sugarbeets grown in four states: Colorado, Nebraska, Wyoming and Montana.

Financing these operations has been a tremendous burden on all of our operations. In order to finance the downpayment on the processing plant, our farmers took on significant debt and depleted our savings to pay off this debt. This is not an easy task nor one that we asked for, as our farmers also are taking yearly deductions in their crop payments from the plants in order to allow cooperatives to meet separately arranged financial obligations.

But, as with any investment, the return will come when financial obligations are completed. This means not only that we are still paying for our own farms and equipment to grow sugarbeets, but also we are financially responsible for the factories.

By becoming owners of these processing plants, the major risk component to the sugarbeets financial investment beyond traditional uncertainties of farming now comes from the unfair international trade issues that directly affect the market for refined sugar. Those are the risks that in fact drove the independent corporate owners of our processing plants out of business, but we farmers saw that we had no such choice.

Now, second, the federal marketing allotments were authorized in the 2002 Farm Bill. Although allotments don't technically limit the amount of sugar that can be produced, they do limit the amount of refined sugar that can be sold. Any excess sugar produced above the marketing allotment must be stored at our own expense. Common business sense dictates that the amount that can be sold will restrict the amount that can be produced in order to limit storage costs. In fact, where there is excess stored sugar, the cooperative management has told farmers to reduce their crop size.

This puts farmers in a very difficult position because all farmers need a certain amount of crop to remain financially viable. That is, sugarbeet growers need to maximize their throughput. If the crop size is reduced, sugarbeet growers need to get more money for their sugarbeets, something that is generally impossible or extremely difficult to do consistently in this market.

An increase in dumped and subsidized imports from the E.U. and countries like Belgium, France and Germany enter the U.S. in the event these orders are lifted will make a shambles of the marketing allotment system devised by Congress.

Losing the balance of supply and demand that the allotment provides will have a devastating impact on my farm, on my neighbors and on the U.S. sugar industry.

Now, third, as with most farm crops, Mother Nature has always contributed to our vulnerability. Personally, this past season alone, I experienced heavy rainfall after the spring planting and then a freeze that killed almost my entire crop. I had to replant 88 percent of that crop.

Not only did I incur the expense of replanting, but I also lost on yield. Once the replanted beets came up four weeks behind where they should have been, I was hit again with another weather disaster, when most of my crop experienced a terrible hail storm causing me to totally lose 40 percent of my crop. That's farming.

Now I need a successful crop year next year in order to recoup my losses, but in order for me to have that determination to pursue that crop, despite the variables in Mother Nature, I definitely need market stability.

Fourth is the very real impact and potential impact of significant volumes of cheap dumped and subsidized foreign sugar in the world market, a major portion of which originates from the E.U. Prices of sugar in the United States have consistently fluctuated near forfeiture levels for many years. Many of our beet sugar processors have had to forfeit sugar because market prices were at levels below the cost of loans.

Excess sugar means even lower prices and if these additional volumes are at dumped and subsidized prices, that is an unfair market advantage that we cannot effectively compete with and remain in business.

Members of the commission, my financial investment and every other sugarbeet farmers' and processors' financial investment are at risk. I am asking you to continue these antidumping and countervailing duty orders that are so critical to the health of the U.S. sugar industry.

Thank you.

MS. COFRANCESCO: Thanks, Terry.

Our next witness is Dr. Susan Manning.

MS. MANNING: Good morning. I am Susan Manning. I am Vice Chairman of the CapAnalysis Group and I am appearing today before the commission on behalf of the U.S. sugar industry.

The information compiled in the ITC staff report and testimony you have heard today show that revocation of the antidumping orders against Belgium, France and Germany and the countervailing duty order against the European Union would like lead to a recurrence of material injury within a reasonable period.

I would like to focus my testimony today on the volume and price effects and the impact of these unfairly traded sugar imports on the domestic sugar industry.

A review of the facts before the commission will show that a determination of likelihood of recurrence of material injury is required in light of the facts of this case.

First, volume effects. The antidumping and countervailing duty orders have a significant constraining effect on imports of sugar from these countries. Imports fell substantially after the orders were initially imposed. At that time, there was no effective quota limiting imports into the

United States. This reduction in E.U. imports was caused by the imposition of these orders.

Moving ahead to this investigation's period of review, in 2004, the E.U. shipped 903 short tons primarily from Belgium, France and Germany at the tier 2 tariff rate. There was no limit on the amount of imports that can enter the U.S. at the tier 2 level. It is the marginal effect of the antidumping and countervailing duty orders imposed under these orders that continues to prevent more entries of refined sugar from these countries.

At the time of the original orders, the E.U. was a net importer of sugar. Today, the E.U. is the second largest exporter of sugar in the world.

As Mr. Roney testified and as the staff report indicates at Table 4-8, the E.U. has substantial and increasing amounts of excess sugar that could be exported to the United States quickly. The E.U. is storing record amounts of sugar stocks because total supply far exceeds its total use. In fact, ending stocks have increased over 30 percent since 1999. The low price of sugar in the world is affecting the E.U.'s ability to manage its CAP sugar program.

In addition, capacity under the restitution program increased significantly when 10 more member states entered the E.U. in May of 2004. Exports have decreased during the period, but with compounding stocks of excess sugar, it seems reasonable that at some point the E.U. will release this excess sugar in the world market and possibly into the United States.

These indicia are evidence of a reasonable likelihood that dumped and subsidized imports from the E.U. may increase during the next several years and cause material injury to the domestic sugar industry.

Second, I would like to address price effects. The countervailing duty order on sugar imports from the E.U. constrains E.U. sugar from entering the U.S. at these highly subsidized prices. The CAP sugar program is essentially the same today as it was in the late 1970s, early 1980s at the time these orders were imposed. The domestic industry was unable to obtain a price at the minimum support level due to this underselling at the time of the order.

The price effect of these dumped and subsidized imports at that time was substantial. In the case of the antidumping determination on Belgium, France and Germany, more than 40 percent of the '77-'78 crop year was placed in the CCC loan program because growers were unable to sell the sugar for the support price and by year-end 1978 substantial tonnages of sugar were forfeited under the program, causing material injury to this industry.

Similar conditions exist today. Since the last sunset review, significant quantities of sugar have been forfeited because sugar prices in the U.S. market were too low to cover the loans on this sugar. Sugar has the characteristics of a commodity product. Small amounts of excess sugar in the market have caused prices to collapse. In 2000, for example, after good growing conditions yielded an above-average yield of sugar, an additional 300,000 to 400,000 tons of imports beyond that necessary to meet demand, roughly 3 percent of total consumption, caused prices to fall 30 percent from the previous year and more than a million tons of sugar was forfeited to the government. That is more than 10 percent of total U.S. production for that year.

In response, Congress authorized marketing allotments to bring stability to the market and prevent such massive forfeitures from occurring again.

Please note, however, imports were not cut back. Rather, restrictions on marketing domestically-produced sugar were imposed.

Third, I would like to address the impact on the domestic industry's financial and operating conditions and the likelihood that material injury would occur if these orders are revoked.

All of the witnesses today have testified that the domestic industry is vulnerable to unfairly traded imports. This industry is united in supporting the continuation of these orders. The questionnaire response rates and the responses of industry members surveyed convey the importance this industry places on these orders.

Operating and financial indicia of vulnerability exists today, as it did five years ago. The data show an industry experiencing ups and downs within a relatively narrow range throughout the period, but never showing any sustained positive trend since 1999. In most cases, these indicia of vulnerability show a weakened industry in 2004 compared to 1999.

Net sales. For processors and refiners, net sales in terms of quantities and value are lower than levels in 1999. For millers, sales of raw sugar to sugar refiners in 2004 were below levels achieved in 2001 and 2002.

Unit value of commercial shipments. 2004 commercial shipments are above the 1999 level, but below 2000, 2001 and 2003 levels. Although the value of these commercial shipments is also higher today than in 1999, per unit values are lower. Per unit values in the interim January to March period are down $13 per ton.

Inventory. Due to the marketing allotments, inventories have increased substantially during the period with record highs in 2002 and 2003. As the growers have testified today, yearly marketing allotments limit the amount of sugar and hence the income that farmers can achieve in any given year. As a result, this industry truly operates within the confines of one-year periods, making it extremely vulnerable to dumped and subsidized imports entering the U.S. in any given year.

Employment-related metrics. The continuing rationalization of production in this industry has resulted in a substantial decline in the number of processor-refiner employees. Twenty-two sugar mills and processing plants have been closed since the last sunset review. The number of production-related workers declined by almost 2500 workers from just 2002 to 2004. On a positive note, productivity has increased significantly and labor costs have declined as efficiency enhancing investments are beginning to impact production and lower production costs.

Income. For cane sugar millers, net income has fluctuated during the period of review, but for each of the years 2000 through 2004 net income was below the level achieved in 1999. In fact, in 2004, net income was only 45 percent of the level attained in 1999.

Growers' net income history is very similar. Net income in 2004 was at its lowest levels during the period of review, reaching only 68 percent of the level attained in 1999.

Net income for processors and refiners is more complex because of the differences in reporting among the various firms and the cooperative structure of some of the industry members.

Although there has been a improvement in net income in the aggregate over the period of review, this improvement primarily comes from fixed cost reductions firms have made to improve their competitive position.

Margins. The industry has operating and net margins today that are lower than those that existed at the time of the original determinations and at the time of the last sunset review.

For the milling segment, operating margins today are a fraction of 1 percent. For processors, margins remained in the single digits during the entire review period.

Grower margins, which are typically higher than miller and processing margins, reached a period low in 2004.

With respect to processors' margins, I urge the commission to use the margin information provided in the staff report at 3-12 in their determination and we appreciate the staff pointing out the likely distortion contained in Table 3-7 as a result of a combination of corporate and non-corporate structures.

Capital expenditures. New investments directed at improving efficiency are a critical component of this industry's future. As the staff report presents at 3-15, processor and refiner capital expenditures have declined substantially since 1999 and 2000, reaching a low point in 2002.

Similarly, capital expenditures by cane millers in 2004 were about half the level invested in 1999.

The industry questionnaire responses point to the lack of investment capital and difficulty of obtaining investment funds from banks because lenders view this industry as a credit risk, given the many challenges that it faces today.

The minimum support price for sugar has been at the same level since about 1985. In real terms, the price has declined by about half.

Mr. Roney's price charts indicate the real price of sugar has declined dramatically since 1985, yet raw material and other input costs have increased. The only means by which this industry will achieve positive real rates of return is by lowering costs to generate profits, but developing and implementing these cost-saving technologies is expensive, as Mr. Jones testified, and once these investments are undertaken, these producers need to achieve an adequate rate of return to encourage even more investment and more cost efficient means of production.

Similar statements are set forth in the questionnaire responses and are summarized in our pre-hearing brief.

The commission has an extensive fact basis before it that shows an industry vulnerable to unfairly traded imports. Sugar from Europe is likely to move into the United States in increasing amounts simply because the market here is attractive relative to the world dumped market if these orders are revoked. A likelihood of continuation or recurrence of material injury is reasonable in light of the facts of this case.

Thank you.

MS. COFRANCESCO: That concludes our affirmative presentation.

CHAIRMAN KOPLAN: Thank you very much. I also want to thank you for providing us with your statements at that start of this hearing so we have them. We'll begin the questioning with Commissioner Pearson.

COMMISSIONER PEARSON: Thank you Mr. Chairman. It's a pleasure to welcome this panel; to see some familiar faces. It's not every hearing that I have that experience. We spend a lot of time here dealing with things like carboxymethylcellulose and it's nice now to get back to sucrose, a chemical compound that I at one time knew a little bit about.

Mr. Doxsie, would I be correct to assume that your headquarters are somewhere in the metropolitan Minneapolis area?

MR. DOXSIE: That's correct.

Commissioner PEARSON: Well, then, permit me to follow my custom and welcome a fellow Minnesotan to Washington.

MR. DOXSIE: Thank you.

Commissioner PEARSON: I regret that it's a little bit warm and humid here for someone of a more northerly persuasion, but I trust you'll survive.

MR. DOXSIE: I'll survive. Thank you very much.

Commissioner PEARSON: Let me begin just by trying to clarify a point or two.

Is the European Union in a position to ship raw sugar to the United States or, as we look at these orders, are we concerned primarily or perhaps exclusively with refined sugar?

MR. RONEY: That would be exclusively refined sugar, Commissioner. The E.U. does import some raw sugar from its ACP countries, its former colonies, but it refines those in the E.U., with subsidy, I would add, before then re-exporting that sugar as refined sugar. So the E.U.'s exports are exclusively refined and are running at record or near record levels of between 5 and 6 million tons this year.

Commissioner PEARSON: One of the interesting things about looking at an order that's been in place for more than 25 years is that some things have happened in the marketplace in the

intervening time.
Am I correct to understand that at the time these orders went into effect there were no quotas or tariff rate quotas in place to restrict imports of sugar from other countries into the United States?
MR. RONEY: Yes, Commissioner. That's correct.
Commissioner PEARSON: Okay. So in the market environment of the late '70s, then, these orders were the only mechanism for restricting that import of dumped and subsidized sugar from the E.U.
MR. RONEY: Yes, sir.
Commissioner PEARSON: Okay. But now we do have quotas, tariff rate quotas, both on raw sugar which we can ignore and on refined sugar, the combined TRQ for refined sugar according to the staff report is some 47,000 short tons, some 25,000 short tons of that is product that's not subject to this investigation, so we can set that aside, and then -- this is on page 1-25 of the staff report -- we have some 11,000 short tons of the refined sugar quota allocated to Canada, 3000 to Mexico, leaving a balance of 7815 short tons of refined sugar that's allocated on a first-come/first served basis.
Now, is that the portion of the market that

we are concerned about being subject to imports from the European Union?

MR. RONEY: Commissioner, I would argue that we are vulnerable to all the E.U. exports.

Tim, could you bring up slide number 12?

The reason we're vulnerable is the fact that under our tariff rate quota system, while we do have a minimum amount of imports that we bring in essentially duty-free and we are allowed to restrict the quantities there, we have no restrictions on the quantities of sugar that can come in above quota by paying the second tier tariff. And because of the nature of the world sugar market and what you see here in this chart is the enormous fluctuation that makes it the world's most volatile commodity market, USDA has ascertained that year after year, that 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, may not be adequate to defend our market.

And so because of the volatile nature of the world market and also because the E.U. is price insensitive to its exports we are vulnerable. The E.U., of course, their producers cover their cost of production and then some by the very generous intervention price, market prices that I mentioned in my testimony are about 42 cents per pound. That's about 40 percent higher than U.S. prices. And they are then insensitive to the price at which they dump their surpluses on the world market because they've covered their costs of production with their domestic prices.

What you see here in this chart is that as recently as 1999 soon after the last hearing on these orders prices did to 4 or 5 cents per pound. As recently as 1985, the year I started working in the sugar industry at the U.S. Department of Agriculture, prices at that time were running at 3 cents per pound. So this kind of price variation can still occur because there's still an enormous amount of subsidy in the world market, there's still an enormous amount of distortion and the Uruguay round of the WTO really did virtually nothing to address that. The Doha round, of course, is still in its infancy.

COMMISSIONER PEARSON: Okay. But let me just clarify again, then. So the concern that you have is really with the possibility of refined tier 2 sugar from the E.U. entering the United States.

MR. RONEY: Yes, sir.

COMMISSIONER PEARSON: Okay. And I know

Ms. Manning indicated that there had been some -- what, less than 1000 tons in 2004 that had done that.

MS. MANNING: Yes. That's correct.

COMMISSIONER PEARSON: Do we know anything about that sugar? Is it some specialty sugar, organic or something about it that made it particularly desired by some user in the United States?

MS. MANNING: We don't know very much about that sugar at all. We do know that the net unit value of the sugar that came in was significantly higher than for other imports, so we believe that there was something unique or special about that sugar. From what we understand, it came in at the tier 2 level. It was not any type of sugar that was specifically excluded under these orders, so it did come in under the orders, but we truly do not know what the makeup of that sugar was at this point.

COMMISSIONER PEARSON: And so if we are going to understand the threat posed by imports of refined tier 2 sugar, we need to consider the price spreads that would have to exist in the marketplace to make those imparts financially viable. I've never paid that much attention to refined sugar pricing, instead looking at raw, and I know world raw today is, what 9 and a half cents, more or less?

MR. RONEY: Yes, sir.

COMMISSIONER PEARSON: Isn't it somewhat unlikely that in a reasonably foreseeable timeframe which is, I think the standard that we have to apply here in this review, that we would have market conditions skewed to such an extent that the price gap would widen to the point that any discernable volume of refined sugar could enter from the E.U.?

MR. RONEY: I don't think we can rule that out, Commissioner, because of the extreme volatility of the world market.

I would also note that in addition to the fact that the E.U. has been exporting increasing amounts of sugar because of its enlargement and because of the surpluses it's generated by its additional imports, that you have the factor of Brazil on the world market, which is an enormous and very disturbing factor.

Tim, could you bring up slide number 16?

What you see here is that the E.U. has expanded its exports of sugar since the early 1990s. This is just on a percentage basis, it doesn't show the actual volumes, but the actual volumes were from 2 million tons of sugar exports in the early '90s to 18 and a half million tons estimated this year. And we keep hearing the stories about Brazil's enormous potential to increase its agricultural production, not just of sugar, but soybeans and livestock products and so on.

And so this is a factor that is extremely disturbing for the world sugar market in terms of the price volatility we still face and the possibility that prices could be depressed a great deal more in the future.

Brazil has been able to expand its exports like the E.U. has, regardless of price, because in the case of Brazil their sugar industry benefits from three decades of ethanol subsidies. More than half their sugar cane is still converted into ethanol rather than sugar. And they have also fairly aggressively devalued the real to the extent that they are virtually impervious to world price declines. And so their export expansion occurred during a time that they were driving the world price down during the 1990s from 14 cents per pound to 4 cents per pound. Nonetheless, they continue to export. And there is the continuing potential that not only will the E.U., the world's second biggest exporter, continue to export large quantities, but that Brazil could expand its exports at an even greater pace and that could continue to put pressure on the world price, potentially low enough to make us vulnerable to second tier imports.

COMMISSIONER PEARSON: Ms. Cofrancesco, you will understand the statutory standard that we have to apply here probably better than I do, but it gets into the question of what is likely versus what is probable or what is merely possible. And I'll return to this later if my colleagues don't address it adequately, but what is not clear to me in this case is the circumstances that Mr. Roney describes seems to me to be possible, but how do we make the leap to see them as more probable or more likely than not?

I don't know whether you want to address that right now, given that my time has expired, but we'll get back to it.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you, Commissioner Pearson.

My first question is for Mr. Roney and Dr. Manning.

In the first review, the commission determined that the U.S. price for refined sugar exceeded the world price by one and a half cents a pound, about 17 percent, taking into account the U.S.

tier 2 duties of 16.69 cents per pound. Therefore, we found that E.U. producers would have an incentive to export to the U.S. market to obtain higher profit margins if the orders were revoked.

I'm referring to a discussion that takes place at pages 52 and 53 of our first review determination.

In light of today's world price, which is about 4.7 cents per pound higher than the current U.S. price, with the tier 2 duties of 16.21 cents per pound taken into account and I note, Mr. Roney, that in response to Commissioner Pearson you said there were 15 and a half cents, but I think it is 16.21.

MR. RONEY: I misspoke. It was 16 and a half. Thank you.

CHAIRMAN KOPLAN: Okay. Thank you. Thank you for correcting that.

It appears to me that the position of the U.S. industry in 1999 is now reversed. What I see is that in 2005 the incentive does not exist for E.U. producers to ship over quota sugar to the U.S. if the orders are revoked because currently they can get a better price in the world market. And I'm referring to Table 5-2 at page 5-7 of the public version of our staff report.

I regard this as an important issue, it's a very important issue. How do you respond to what I'm looking at?

MS. MANNING: Mr. Chairman, I believe if you go back and take a look at our pre-hearing brief --

CHAIRMAN KOPLAN: I have. I don't think you deal with it in your pre-hearing brief.

MS. MANNING: I'm sorry. Let's go back to our substantial response to the investigation, the opening investigation.

I think in that brief we point out that as early as a year and a half ago prices were very close to the level, at which point there would be an economic incentive for E.U. imports to enter the United States. There was, I think, just over a penny or a penny and a half difference if you look at the relevant metrics.

CHAIRMAN KOPLAN: Yes, but I'm looking at what I see now.

MS. MANNING: I understand. Our position is right now, given the information that you have, there is no incentive at this point to bring in sugar. However, sugar prices in the world market and within a narrow range in the United States fluctuate. If you go back and look at the world sugar prices, if you look at the midwest price of sugar, you will see a fairly large variation of fluctuation in prices.

Our position is that at any point in time those two factors could come together and recreate that incentive which may happen three months from now, six months from now, nine months from now, but incentives do exist, they have existed fairly close within our period of review and we're talking about orders that if removed that incentive may in fact come back very shortly because of the fluctuations in price.

CHAIRMAN KOPLAN: I appreciate your response, but I think it would be helpful for me if you could go back and flesh this out in some more detail in the post-hearing submission, taking into account, for example, the tables that appear in the staff report.

MS. MANNING: Certainly.

CHAIRMAN KOPLAN: Would you do that?

MS. MANNING: Yes.

CHAIRMAN KOPLAN: Thank you very much.

Ms. Cofrancesco and Mr. Clark, the staff report at page II-4 states, and I quote, "Public information concerning the sugar industry in the E.U. indicates that it has significant economic potential for shifting exports of refined sugar to the United States from other countries."

On page 28 of your pre-hearing brief, you state the following, and I quote, "The WTO's decision that the E.U. is subsidizing its sugar producers coupled with the staff report's conclusion that," and this is in quotes within the quote, "conclusion that 'the E.U. indicates it has significant economic potential for shifting exports of refined sugar to the United States from other countries clearly point to the potential for the E.U.'s subsidized sugar to injure U.S. producers if the orders are revoked.'" That's the end of the passage from page 28.

It took me a while to find your partial excerpt in the staff report because your brief didn't provide a page reference. As I read the full sentence in the report, it is clear to me that the staff did not reach such a conclusion. Moreover, the paragraph you excerpted concludes that, and I quote, "Even if these duties," meaning the subject orders, "were not in effect, the TRQ under the U.S. sugar program would still significantly restrain exports to the United States."

Please respond, either Ms. Cofrancesco or Mr. Clark or both.

MS. COFRANCESCO: Mr. Chairman, we did take a look at the staff report and the way that we read the data and the way that we saw the collected information, we agreed with that portion of the sentence that you are talking about and --

CHAIRMAN KOPLAN: You what?

MS. COFRANCESCO: We believe that public information does indicate that the E.U. has significant economic potential for shifting exports to the United States.

CHAIRMAN KOPLAN: No, I'm not questioning that. What I'm saying is the phrase that was left off the quote is the fact that the rest of the sentence is attributed to the public information concerning the sugar industry in the E.U. and that does not appear in your brief, that appears when you read the full sentence in the staff report. Do you see where I'm coming from?

And the leap you make to the staff reaching that as a conclusion doesn't coincide with what I'm reading in the staff report. Do you follow me?

MS. COFRANCESCO: I do.

CHAIRMAN KOPLAN: Okay.

MR. CLARK: Excuse, Mr. Chairman?

CHAIRMAN KOPLAN: Mr. Clark?

MR. CLARK: Not disagreeing with the interpretation you're putting on the language at all --

CHAIRMAN KOPLAN: I'm just giving you the full quote.

MR. CLARK: Absolutely. No, no. I certainly agree. Perhaps just a moment of clarification. The position that is intended to be articulated in the brief and as you heard in the testimony today, it is certainly true that the E.U. and its member countries have the potential to shift. As you correctly described, realizing that potential or making the choice to exercise that potential is an economic phenomenon that can be done really quite quickly.

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 although we also do have the phenomenon where unlike the situation we had last time, we do in fact have imports of subject merchandise that did come in from the E.U., so we are looking at a situation where we have the staff correctly finding that the E.U. has significant potential to redirect its mandatory exports, its level of sugar exports.

CHAIRMAN KOPLAN: Well, let me come back to you now, because the staff concludes that even if these duties weren't in effect the TRQ under the U.S. sugar program would still significantly restrain exports to the United States. That appears in that same paragraph.

MR. CLARK: That's correct.

CHAIRMAN KOPLAN: What I'm saying to you is I don't think that the language that you're quoting from the staff report establishes that the E.U. has the ability to shift. I think all the staff is referring to here is some public information concerning the industry that indicates that but I just think that you go beyond when you attribute that to a conclusion that the staff is making.

Do you follow where I'm coming from?

MR. CLARK: I understand what you're saying.

CHAIRMAN KOPLAN: Okay. I don't want to beat it to death, but --

MR. CLARK: No, no.

CHAIRMAN KOPLAN: But I just had a problem with that.

MR. CLARK: Understood.

CHAIRMAN KOPLAN: Okay. Thanks.

Mr. Burton, Ms. Cofrancesco and Mr. Clark, on page 16 of your pre-hearing brief, you describe forfeitures to the commodity credit corporation of USDA totalling 40,000 short tons of sugar by Amalgamated Sugar Company -- that would be you, Mr. Burton -- and Michigan Sugar Company, but these forfeitures took place during the last crop year, which ended September 30, 2004.

When in 2004 did these forfeitures occur and can you identify any forfeitures that have taken place more recently?

Let's start with Mr. Burton.

MR. BURTON: You are correct. 24,000 tons of forfeitures did occur in 2004. I do not recall the exact date, but I would presume, since they're nine-month loans, they would have been July, August or September, in that range.

CHAIRMAN KOPLAN: Okay. If when you go back you find that the date is different, you could submit that post-hearing.

MR. BURTON: Correct.

CHAIRMAN KOPLAN: Ms. Cofrancesco and Mr. Clark, did you want to -- could you tell me whether you can identify any additional forfeitures that have taken place more recently?

You're saying no, Ms. Manning?

MR. RONEY: This is Jack Roney.

CHAIRMAN KOPLAN: Mr. Roney?

MR. RONEY: Yes. There have been no further forfeitures since last fall.

CHAIRMAN KOPLAN: Okay. Thank you very much. I see my time has expired.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

Let me join my colleagues in welcoming this panel here today. I guess, like Commissioner Pearson, it's a little bit of down home week, so I would like to extend a special welcome to Mr. Burton, a fellow Idahoan back there. And I know as CEO of Amalgamated he's had the opportunity to visit my hometown of Paul, Idaho several times to visit the sugarbeet processing plant there, which I'm very familiar with. Even though I've been out here a while, I still have the chance to get back there, so it's nice to have you.

I think similar to Mr. Doxsie, it's better to be in Idaho during the summer than in Washington, D.C.

MR. DOXSIE: I agree.

VICE CHAIRMAN OKUN: So we appreciate you making the effort. We would all like to be back there.

Let me follow up a little bit just on a couple of things that I've heard. One thing I guess I'll start with and it might be Ms. Manning but, Mr. Doxsie, I heard you say it as well, so I'm just going to ask one question in terms of how we look at this, looking at the reasonably foreseeable future here, looking at what the commission found in the first review.

One of the things that, of course, is different and we've talked a bit about are the marketing allotments and I would like you to expand a little bit more on how the commission should take those into consideration in trying to determine what the impact of any volume of E.U. imports would be because, again, it seems like if I look at even the prices and the other information that's been supplied in the record post marketing allotments, you see prices higher and I'm trying to figure out how to take that into account when I try to think about the impact of additional imports into this market.

MR. DOXSIE: Commissioner, from my point of view, marketing allotments are fine. They simply are, as you know, I'm sure, a limit placed on we as marketers as to how much sugar we can market and if that is done properly, then there may be some balance in supply and demand, but it's just as easy for the marketing allotments to be too high as too low and could cause prices to go low or prices high when the market is out of balance.

So i think one of the points that I was making was that the market is -- it's a very fragile market for sugar and any excess sugar tends to drive prices down rather significantly. So if that excess sugar comes in the form of marketing allotments that are greater than demand, then that pushes prices down. If the excess sugar comes in the form of increased imports of sugar, that too moves prices down very quickly.

As you probably are aware, most of the buyers of sugar, whether they're buying consumer sugar, the big supermarket chains, for example, or they're buyers of industrial sugar, the big food processors, they're very sophisticated buyers. So they're aware of the market dynamics and they're very attuned to what total demand is for sugar in the U.S. and total supply. So if they see any amount out of balance, they are going to use that in their negotiations and push prices down.

I'll turn it over to Dr. Manning in the

event that she has additional comments.

MS. MANNING: I think you said it very well.

Here, because the price of sugar -- small differences in the price can have a very large effect on overall quantity, as Mr. Doxsie said earlier. If you just have a small amount of sugar that comes in at what we would consider to be a below-market price, it affects all the sugar that's being sold in that market because that market price will come down to meet it.

So even though we have a restriction on how much sugar can be sold, there is no restriction at what price it can be sold and so if there is a price effect from these imports, it will affect all the sugar that falls under the marketing allotments.

VICE CHAIRMAN OKUN: Mr. Roney?

MR. RONEY: Commissioner, if I could add one other thought and that is that the nature of the marketing allotment system is that Congress designed it so that if imports exceed a set amount, that is, the amount that we've already conceded in the WTO and the NAFTA, in the statute it's 1.532 million short tons, that would trigger off the marketing allotment system. That was Congress in effect saying we've ceded enough of our market to foreign countries, let's reserve the rest for efficient U.S. sugar producers, at least under the 2002 Farm Bill.

So when we look at the potential for imports coming in, second tier imports, from the E.U. or any country, that would come in potentially above that 1.532 million ton trigger, that would trigger off marketing allotments.

In a situation as we're in today, when we are holding back and storing at our own expense a half million ton of sugars, if marketing allotments are triggered off just by a small amount of additional sugar from the E.U., that causes a cascade of the sugar that had been blocked from being marketed coming onto the market.

So a 40,000 ton shipment from the E.U. becomes a 540,000 ton cascade of sugar onto the market as those marketing allotments are triggered off.

So that's an added level of sensitivity to the imports of E.U. sugar that the marketing allotment system provides.

VICE CHAIRMAN OKUN: Okay. Well, let me talk a little bit, then, in terms of demand to just get a sense because the relationship with the marketing allotments and supply and demand in the market, of course, is relevant to how we evaluate additional imports in the market.

The one thing that struck me in looking at the record here in terms of demand is that -- just listening about Atkins and the different artificial sweeteners that are out there, I think I would have expected to see consumption to have dropped more than we see on this record, which to me is you've had a slight up tick since 1999, not a big drop off, and some of the other information in the staff report indicating that even among the different end uses for sugar there hasn't been much of a switch.

So I would appreciate hearing from producers out here on what you see looking forward. Is what we see in the record what you would anticipate as we look forward in terms of demand for the product?

Yes, Mr. Doxsie? And Ms. Blamberg as well.

MR. DOXSIE: I'll comment first and then turn it over to Dr. Blamberg.

Candidly, I'm not familiar exactly with the staff report and what the demand data is there, but I suspect that demand for sugar will grow but very, very slowly going forward. And that, I think, is one of the added vulnerabilities of this industry. It's not an industry that is able to benefit from robust demand growth and allow the industry to grow. So in my estimation, we're going to experience limited demand growth going forward.

VICE CHAIRMAN OKUN: And when you say limited, is there a percentage you would put to that? Are we talking 1 to 2 percent? Is that low for you?

MR. DOXSIE: My personal opinion, yes, but it's 1 percent-ish or a very low number like that. And, as you know, the industry faces lots of competition. There are lots of other sweeteners out there, high intensity sweeteners, this new one, Splenda, is a very good high intensity sweetener. And, as you point out, there are a number of Americans that try to avoid carbohydrates, so that limits their sugar consumption.

VICE CHAIRMAN OKUN: Ms. Blamberg?

MS. BLAMBERG: Well, in terms of history of the numbers, for decades we saw sugar consumption increase by between 1 and a half to 2 percent a year, which was a slight increase beyond population growth. Starting with about three years ago, the 2001-2002 government fiscal year, we began to see a decline in sugar consumption of about 1 and a half percent a year and that is something that we in the industry have found extraordinarily alarming.

It's impossible to document exactly where it comes from because sugar is used in so many products as well as table-top sugar that no one has really been able to devise a survey to go around and say you've stopped eating sugar because why. But we can document the numbers. We think it's artificial sweeteners because they're doing well. We think it's low carb diets and the general concern about obesity. A third factor I suppose I could mention is the aging of the population. Youngsters eat more sweetened foods than someone like myself. So we have been seeing this decline and there's no reason to suspect that it won't continue.

VICE CHAIRMAN OKUN: Okay. Well, perhaps --

Is there anyone else who would want to comment?

Yes, Mr. Roney?

MR. RONEY: Thank you, Commissioner. Just quickly, I don't want to give you the impression that we're an industry in hopeless decline. The U.S. Department of Agricultural 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.

That 1 or 2 percent growth in the market is a great opportunity for our producers to increase their efficiency if we can supply that additional 1 or 2 percent of consumption growth. The danger with the possible sunset out of these orders is the opportunity for other countries, for the E.U., to come in and take that minimal growth that we can look forward to having away from us. That's why we'd like to be able to compete among ourselves for that consumption growth and give our producers the opportunity to further increase their efficiencies.

VICE CHAIRMAN OKUN: Thank you for those additional comments.

I see my red light has come on.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman.

Welcome and thank you to all the members of the panel for being here to help us once again understand the sugar program and the sugar industry. No matter how many times I get this lesson, I always need it again when an issue is before us, so I do appreciate your help today.

I, too, like some of my colleagues before am kind of focusing on this question of in the last review we really looked very much at the relationship between the U.S. price and the world price and the tier 2 tariff and that was key to our decision.

In part, I want to ask some questions just about what's going on with these prices so I understand them.

I might also ask the question is that the right focus? Is that where we should be focusing? Is that what the threshold question is all about, the relationship of world price, U.S. price and the tier 2 tariff?

So let me ask that threshold question.

Am I correct, Mr. Roney, in focusing first and foremost on that?

MR. RONEY: Well, Commissioner, I think that the price element is extremely important, but let's also consider the horizon here for potential further decreases in the second tier tariff.

We're looking at a six-year horizon. The Doha round of the Uruguay round they're aiming to complete in Hong Kong this December. It's conceivable that that would embark us on a further set of declines in the second tier tariff.

In 1999, we were in the midst of a series of a six-year reduction of the second tier tariff under the Uruguay round, which began in '95. So those tariff reductions from 18 cents to the 16 and a half cents that we are at now went into effect essentially from '95 to 2001.

So in addition to the price sensitivity that we face because of the extreme volatility of the world market and the potential for increased dumped exports by the E.U. and others, there is also the potential for a decline in our second tier tariff, beginning potentially a year from now because of the Doha round of the WTO

COMMISSIONER MILLER: Okay. Well, however, I would caution you because this is what we have to look at. It's not the potential or the possibility or the -- I for one am not about to try to predict the outcome of the Doha round. Those much closer than I am couldn't do so. I really have to deal more with something that is firmer. Our mandate here is to look at something, I think, that is more based in our record, on the evidence that we have before us.

So it's hard for me to look at that, I think. I really want to stay focused more on what I can feel is a bit more firm in our record.

So otherwise, it makes sense for me to continue to look at these relative price levels?

Mr. Clark?

MR. CLARK: Just to elaborate on two small points that relate to this. If you go back and look at the standard that is applicable in sunset reviews, and here I'm taking this from the statement of administrative action, there the legislative history tells us that the analysis of the likelihood of occurrence is one where if it is reasonable in light of the facts of the case.

The facts of the case are certainly the history of the world price, the U.S. price and the level of the tier 2 tariff within the timeframe of the five years that you're looking at and inclusive also of the earlier period. You have complete cycles as to both U.S. price and to the world price and you have a decline in the tier 2 tariff.

In the record that you have, which includes the five years and the experience before, you have a situation where on the facts of the record you can see the opportunity presenting itself. The one fact that we do have now, and we're not arguing that the volume is an overwhelming volume, but it is a difference from what we had last time, we do in fact on this record have subject merchandise coming into the United States from the E.U. and paying the tier 2 tariff. That did not exist in 1999.

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.

The incentive is still there. It is a question of the point in time when the numbers will align themselves. On this record, you can see a history of multiple opportunities for the alignment of those values.

Now, the second thing that is relevant to your consideration, of course, is the question of industry vulnerability, so when you look at the potential for the execution of that incentive, it's informed also by the vulnerability of the industry and, as Mr. Roney was just describing, a circumstance now in which you have an additional component to the U.S. policy, which is the allotments, and the risk of a volume triggering them off, not simply a price but a volume, resulting in the dismantling of that very carefully structured program.

So I think those are other components of your analysis.

COMMISSIONER MILLER: Okay. That's fair. And so let me go to a better understanding of some of the price movements that I see when I just look at sugar prices in the United States and in the world market over the last five years, looking at the previous review. I want to make sure I understand some of the shifts.

With respect to the world market to start with, you know, it does seem that the world market prices are lower now generally than they were during our last review. Why is that, Mr. Roney?

And, recently, if they've kind of moved upward in 2005, which I think is a fair characterization, why is that?

MR. RONEY: Well, to some extent, the year-to-year fluctuations in world price are chiefly driven by supply and demand. I say that with a caveat that the sugar sold on the world market is sold almost without exception at dumped prices, at prices below the cost of production of virtually every country in the world. And so that to some extent would suggest that there isn't a great deal of supply and demand factors really driving those decisions. For example, the amount of sugar that Brazil ships into the world market each year is more a function of what's happening with ethanol policy in Brazil than it is what's happening with the world price.

With the E.U., they're continuing to send out large amounts of subsidized sugar, not so much as a function of what's happening in the world price or even what's happening in E.U. production, although that is a factor, but it's also a factor of how much more imports they're having to take under the EBA and Balkan and other concessions.

But you do have on the year-to-year basis for that fairly marginal market with only about 20 percent of the world sugar production being traded on that market, you will see year-to-year variations based on supply and demand factors.

Globally, sugar consumption has remained on a fairly consistent modest increase and production does vary from year to year with variations in weather, but two continuing factors have been the repetitively large amounts of sugar exported by the E.U. and increasingly the amount of sugar exported by Brazil, which, when Commissioner Pearson was asking about the potential for low prices in the future, while we see the E.U. plodding along at continued significant levels, it's Brazil's potential for dramatic increases that gives us the most pause with regard to the potential for further collapse in prices.

I'll give you one quick example of something that could occur and that is that while oil prices are high the demand for ethanol is relatively firm in Brazil and elsewhere and so that's attracting relatively larger amounts of Brazilian sugar cane going to ethanol, rather than sugar. So that's kind of a plus for the world market, it's a positive, but when oil prices inevitably decline from the peaks that they're reaching now and ethanol might become less appealing, Brazil will fairly readily shift that cane back into sugar with the potential that that could push down world sugar prices fairly dramatically.

Again, that's where supply and demand factors do affect it. If Brazil is increasing exports in excess of any perceived increase in demand, that's obviously going to push the price down and that happened very dramatically in the 1990s.

COMMISSIONER MILLER: Okay. So those two things perhaps would be most responsible for the general decline in the world price?

MR. RONEY: Yes.

COMMISSIONER MILLER: I recognize that whatever this world market price is, it's -- sometimes I'm not sure how meaningful it is, I'll admit, but it's knowing what it is, it is the other thing that we have to look at here.

All right. I have other questions, but I'll go to them on the next round.

Thank you.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you.

And I, too, would join my colleagues in welcoming all of you here to this hearing. We very much appreciate your taking the time and the effort to be with us. For those of you that have traveled a long way to be with us, a special thanks to you for your time this morning.

I want to start, just to make sure I understand -- I share Vice Chairman Okun's issue of concern, I want to make sure I understand the implications of the marketing allotment in terms of both the implications on the U.S. side as well as this issue of the trigger.

Let me start with the trigger, just to make sure I understand it because, again, we have to decide up here how likely is it that we are going to see imports at a level that will actually result in the triggering off of the marketing allotments. So let me just make sure I understand it.

The level is set, Mr. Roney, you testified at the 1.4, 1.5, et cetera, tons.

MR. RONEY: Yes.

COMMISSIONER HILLMAN: How close are we to that now?

MR. RONEY: Thank you, Commissioner. At this moment, we are below that.

COMMISSIONER HILLMAN: By how much?

MR. RONEY: By about a quarter of a million tons.

COMMISSIONER HILLMAN: Okay.

MR. RONEY: And the reason is that we are taking the one and a quarter million tons from the WTO as we always do. And then there's a quarter of a million tons that we are required to import from Mexico, if Mexico has the sugar to export.

Now, the last couple of years, Mexico has had disappointing crops and they have not had surplus production to send to us. We're required to take up to a quarter of a million tons of Mexican surplus production.

So at the moment, in the marketing era that we're in right now, we are at only one and a quarter million tons, we're below that trigger. However, that will be changing fairly dramatically because we're at the time of year now when U.S. and Mexico meet to discuss their surplus producer situation. These meetings normally occur in late June or early July. And the Mexican sugar production has dramatically increased this past year. They've had a tremendous recovery in their crop. According to USDA figures, and we can provide those to the commission, they've gone from about a 5.3 million ton crop to a 6 million ton crop.

So what that means is that they will now have the surplus production available to send to us and we would anticipate that the quota that will be set for Mexico in the coming year, the year beginning October 1, will allow them to fill their entire quota.

COMMISSIONER HILLMAN: So the trigger mechanism is set at the total amount of tier 1, if you will, or in quota shipments permitted? They are one and the same?

MR. RONEY: No, Commissioner.

COMMISSIONER HILLMAN: Is there a difference in the numbers?

MR. RONEY: First, let me explain. The marketing allotment trigger, that amount is not the actual TRQ. That is the amount that Congress came up with saying, okay, let's look at our WTO commitments, our NAFTA commitments, that's our minimum level of imports, let's make that the trigger level above which we will not have marketing allotments.

And so what happens is that all the sugar that we import for domestic food use counts toward that trigger, whether that sugar is first tier or second tier. So right now, we are at a point where we're taking only first tier imports from the WTO, that's why we're at a million and a quarter tons.

The market anticipates that this coming fall that we will ratchet that up to first tier, the full amount coming in from Mexico and the WTO, which will bring us right up to the trigger. That then makes us extremely sensitive to second tier sugar coming in from any country, including the E.U., that could tip that over the 1.532 million ton trigger.

So while we have a little bit of room right now, that cushion, if you will, is disappearing rapidly because of the recovery in Mexican production.

COMMISSIONER HILLMAN: If I can then turn on the grower side or the farmer side, I'm trying to make sure I understand from your perspective whether this marketing allotment and the notion that there might be restrictions on how much can actually be sold on the market has had any effect in terms of the prices you get from the millers or the processors or has had an effect on your decisions in terms of how much production to create.

Have you seen an effect on domestic prices or on supply as a result of these marketing allotments?

Any of the farmers or growers?

MR. JONES: Ma'am, we feel that the allocations are a definite need because of supply and demand. It's like if you produce 1000 acres instead of 500 so you can get $1000. If you could $1000 on 500 acres, you're better off because of the expense involved. Do you follow me?

COMMISSIONER HILLMAN: Right.

MR. JONES: Every grower needs to increase his throughput the best he can, but yet he has to do it at the best prices that he can get and as we increase our costs such as fuel and fertilizer which have risen greatly, we need to recap the best profit we can.

Now, do the growers feel that marketing allocations are a necessity? Yes, we do. To keep the market in balance.

COMMISSIONER HILLMAN: Okay. Has it had an effect on prices?

MR. JONES: I believe so because I think we've had a more stable price to an extent. I think if we -- well, there's no think about it, had we not had allocations, you would have seen a lot more sugar forfeited this last year.

COMMISSIONER HILLMAN: Okay. Others? Mr. Bearden, Mr. Doxsie? Others? Mr. Breaux?

MR. BREAUX: This is Jessie Breaux. We have seen a stable price for many years, as I stated in my speech. With that price, with the lack of an increase, things that we do have increased in cost. Nothing has stayed the same, fuel, labor and all. These marketing allotments are there and they have worked. The situation we have had is that we have never reached the point where the allotments have kicked in because of the poor weather conditions we've had. We have not been able to produce to those sugar levels that we had done in the past. But the margins are so close in price, but anything -- the E.U. sugar coming here that would cause a downward trend in price would affect me drastically.

COMMISSIONER HILLMAN: Do you actually negotiate the price that you are going to receive for your cane or how does that work?

MR. BREAUX: I deliver my sugar cane to a factory that processes the sugar cane into raw sugar in Louisiana. The price is determined by the price they have sold that raw sugar to refiners for processing into refined sugar. And our cooperative handles that process to sell the sugar. The quantity and quality of sugar in our sugar cane is determined at the mill.

COMMISSIONER HILLMAN: Okay. So it's basically you're just told for this amount, for this quality you get X.

MR. BREAUX: X amount of price, based on what they have sold their raw sugar to the refiners for.

COMMISSIONER HILLMAN: Okay. Okay.

Do others want to comment on this issue?

MR. JONES: I have one more comment on that. We as growers are the processors in a sense. What the processors make for a profit is what dwindles down to us as far as -- as I mentioned earlier, getting these things paid for. So we like to see a stable price and a good price, but whatever the processors make on this thing, we're all concerned about everyone's allocation, but at least we're not overproducing sugar.

And then that also gets back to the point of storage. We need to keep everything in line because that comes out of our pocket, too, should we have to store excess sugar.

COMMISSIONER HILLMAN: Okay. I appreciate that.

Anyone else?

Mr. Roney?

MR. RONEY: Yes, Commissioner. Thank you

Specifically on your question about what's happening with prices, there's a slide from my testimony which shows that in 2002, when marketing allotments were first put in place, we had a very significant, very helpful recovery in prices.

The Department of Agricultural at that time set an overall allotment quantity, OAQ, that was very conservative and it provided a nice balance in the market and enabled prices to recover.

However, since that time, the department has been less conservative. They have put in place OAQs that we thought were really too large and that has pushed prices back down into the forfeiture level, which is why we had some forfeitures this past year.

So the marketing allotment system can have the effect of being very positive for prices, but if it's not managed carefully enough or not managed in a way that producers would prefer, it can be used to oversupply the market and push prices back down again, so it can provide stability, but it can be used to keep prices low as well.

COMMISSIONER HILLMAN: Okay. I appreciate that.

Just one quick follow-up, perhaps for you, Dr. Manning. And I need to go back at some point to this issue of what caused these big price declines because there's a part of me that's not quite sure how much of it was as a result of the increased domestic shipments on the market as opposed to the volume of imports.

You stated in your testimony your sense that it was the 300,000 ton increase in imports that caused the prices to fall so much and yet I'm looking at domestic shipments up by 1.4 million tons, so I'm struggling with why should I assume that the price declines are as a result of a much smaller volume of increased imports as opposed to a much, much larger volume of domestic shipments coming on the market?

At some point, I would like to come back to that issue, to make sure I understand what I should be looking at in terms of these price volatilities.

Thank you.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Mr. Chairman.

Dr. Blamberg, you have a lot of experience in this industry, at least part of it working for a sugar cane refiner. If refined sugar was to enter the United States from the European Union, would it enter in some type of bagged form or could it somehow be shipped in bulk?

MS. BLAMBERG: At present, most of the refined sugar that moves by oceangoing vessel in the world goes in bags. However, in the past couple of years, some French exporters have developed a way to ship bulk sugar and they do that in some of their shipments. That's not come into the U.S. because we haven't bought in that kind of quantity, but to some of their North African destinations, they have done this bulk shipment and I have no doubt that if the orders were lifted and the European Union were to see the U.S. as an attractive market going forward, this method of shipment would expand quite rapidly because it's much more economic, as I'm sure you know, to in bulk and in bags.

COMMISSIONER PEARSON: And does it require special equipment to off load a bulk vessel?

MS. BLAMBERG: Insofar as the sugar has to be kept sanitary, yes, but that same situation applies to rail cars of sugar which most sugar in the U.S. moves by rail car or liquid sugar in tanks.

COMMISSIONER PEARSON: Right. Right.

MS. BLAMBERG: So similar technology.

COMMISSIONER PEARSON: All right. It would be correct to assume that some new investment would be required in the United States to off load bulk refined sugar?

MS. BLAMBERG: If the imports were of a significant quantity to make that worthwhile.

COMMISSIONER PEARSON: All right. Okay.

So if we assume for the moment that import volumes from the E.U. might be too small to justify trying to handle bulk refined sugar and we would be looking at bagged shipments, what are the weights of bags that might be viable for import?

MS. BLAMBERG: The weights of bags vary between 50 kilos and 1000 kilos. I'm trying to convert between kilos and pounds. Our refineries ship -- it's been in what we call totes and it's 1 ton.

COMMISSIONER PEARSON: A pallet or forklift size?

MS. BLAMBERG: Yes. In one polybag that is equal to one ton. And that's the way the industry around the world is moving, from the 50-kilo bags to the 1-ton totes which are quite economical to ship.

COMMISSIONER PEARSON: Are most U.S. industrial sugar buyers able to use either bulk rail sugar or the 1000-kilo totes?

MS. BLAMBERG: Yes. They can use both.

COMMISSIONER PEARSON: With a preference for the bulk rail?

MS. BLAMBERG: It tends to depend on quantity. Medium-sized manufacturers will take totes. The really big fellows take normally rail cars. However, the U.S. has a certain amount of re-export business where we import sugar, refine it and export it and in years when market conditions in the world warranted, Domino as one refining company has exported as much as a million tons on the world market of refined sugar, all of it in 50-kilo bags. So it can be done and it can be economic if the price is right.

COMMISSIONER PEARSON: Okay. Although it's probably more economic if one is shipping those bags to a country with relatively lower labor costs for handling them once they get there. It just seems to me there would be a disadvantage to bringing 50-kilo bags into the United States because someone has got to pick them up and move them.

MS. BLAMBERG: I see your point, but I am convinced that given the level of development of the European Union's sugar industry that if the market economics were there they would find a way to do it very quickly.

COMMISSIONER PEARSON: Right. And in the intermediate period, we might expect the 1000-kilo totes to come in, if product came in in any volume from the E.U.?

MS. BLAMBERG: Except in the -- I believe it's two ships, one, two or three ships that have already been purpose built for holding bulk refined sugar and a typical sugar vessel is anywhere from 30 to 50,000 tons per vessel, so we're talking about significant quantities.

COMMISSIONER PEARSON: Right.

MS. BLAMBERG: Even if there's only one shipment or two shipments that come in in bulk per year, you're right up there at 100,000 tons.

COMMISSIONER PEARSON: Okay. Let's assume for the moment that the price spread between world sugar and U.S. sugar becomes sufficiently wide that the U.S. market is really tight and someone decides to import a quantity of tier 2 over quota sugar, okay?

Which form is likely to be most economical to arrange that import? Would it be refined sugar or would it be raw sugar that they would have tolled through one of the existing refiners? Or maybe the refiner itself doing the importing and then selling it. Which is going to be better in terms of the economics, import of raw or import of refined?

MR. RONEY: Commissioner, I think that would depend on the premiums in the world market, the premium between raw and refined prices, which vary quite a bit.

I would also note that it's unlikely to imagine that we would need to import second tier sugar. What the Department of Agriculture would be more likely to do if the market were tight and prices were rising would be to increase the overall allotment quantity first so that if we have any domestic production that hasn't moved in the marketplace that could move in first. Or, if we have already marketed all our domestic production, most likely the department would increase the tariff rate quota under first tier and give first shot at that additional demand to the quota holding countries that we've traditionally taken our sugar from.

COMMISSIONER PEARSON: Ms. Blamberg?

MS. BLAMBERG: Maybe I could just add to that and expand on what Mr. Roney mentioned with respect to the differentials on the world market between raw and refined sugar which are traded as two separate contracts.

What I'm concerned about, one of the things I'm concerned about, is that European sugar analysts have predicted that going into the next fiscal year European refined sugar exports will be at an all time high and I cited in my testimony various reasons why that is quite likely. My concern is that whatever country that sugar goes to, that additional tonnage, whether it's another -- I think it's forecast at an additional 2 to 3 million tons -- will have a significant depressing effect on the raw and refined differential in the world market.

The world refined market is estimated somewhere between 15 and 2 million tons, so an additional 2 million tons is quite significant and that will bring the differential down, which makes tier 2 imports into this country all the more attractive for the Europeans.

COMMISSIONER PEARSON: Okay. I understand the point that you are raising, Mr. Roney, that there are things that would happen in the marketplace first before the market would get so tight that we would have over quota imports, but if we want to understand the potential risk that imports from the E.U. would do material injury to the U.S. industry, we have to think of a circumstance in which some meaningful volume of E.U. sugar would enter the United States, so I was kind of just taking a hypothetical situation where the market got tight enough that sugar was now needed and the question is, again, is the European Union a likely origin for such sugar if the U.S. market gets so tight that we need sugar from somewhere?

My sense has been that the more likely sources of sugar in volume would be Brazil, Australia, Guatemala, you name them. I mean, there's exporters out there that traditionally send sugar to U.S. refiners to be processed and moved economically in bulk rail cars to U.S. consumers. It's not clear to me why we would expect that marketing system to be set aside and suddenly we would import some bagged sugar from the E.U. to fill this need.

MR. RONEY: Commissioner, if I may, I think a key factor is the E.U.'s price insensitivity, where Australia or Guatemala are selling most of their sugar on the world market and are really sensitive to those world prices, that the E.U. is not, that this is a surplus disposal mechanism, pure and simple, for their sugar and the amounts available that they have to dispose of are increasing.

Also, they have a substantial transportation advantage to East Coast ports, where most of our population is located, where demand is highest. So they do have a big transportation advantage relative to Brazil.

Now, Brazil does still predominantly send raw sugar. The E.U. could fulfill immediate demand in eastern ports where they could bypass refineries and send refined sugar directly to food manufacturers.

COMMISSIONER PEARSON: I would just add as a caveat that I believe there is a modern refined sugar loading facility at the Port of Santos in Brazil, although they primarily ship raw, they are also very efficient at shipping refined relative to world standards.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you, Commissioner.

This is for Mr. Jones and other cooperative members.

Let me just say because of the number of tables you all are sitting at, if you can re-identify yourselves each time you respond to a question, that will be helpful for the reporter.

On page 44 of the pre-hearing brief, it states, and I quote, "The amount of refined beet sugar production under cooperative grower ownership increased from 65 percent in 1999 to 93.4 percent in 2004. To accomplish this restructuring, growers have undertaken significant investments and debt to purchase these production facilities, making them more vulnerable to dumped and subsidized imports that would cause price depression and suppression in the U.S. domestic market."

My request is this. Will each of you document for me in a post-hearing submission any significant investments you made and debt that you have undertaken to purchase such production facilities during the period under review?

I would also appreciate it if you could provide me with any of the details now.

Could I hear from the co-op members on this?

MR. JONES: I'm Mr. Jones and I would like to catch the last part of your question.

CHAIRMAN KOPLAN: The last part was if you can provide me with any of that information now, I would appreciate it.

MR. JONES: And that was what information?

That's my question.

CHAIRMAN KOPLAN: Any significant investments made and debt undertaken to purchase such production facilities during the period of review as is mentioned on page 44 of your brief.

MR. JONES: Okay. Yes, we'll be happy to do that or I will be in the post-hearing. Part of that stuff I would guess is because of various -- it's probably common knowledge in this room amongst the industry, but it's kind of proprietary information, so I really would not like to say how much, but I might explain a little bit how this process takes place in that each grower purchases a share being an acre of beets. He purchases the right to produce beets on one acre. So if he were to buy 10 shares or 100 shares, he can produce beets on 10 shares or 100 shares. And that is where his investment starts.

After that, when I explain it to people, it's kind of like we made the downpayment on the car, then we finish paying for the car and so you have your initial investment, which is quite substantial, and then to finish paying it off, you let the operations of the plant, the profit, go towards retiring the debt of the purchase in addition to withholding a certain percentage of your payment on your crop to go that way, too.

So you've got your downpayment that everyone basically borrowed, in addition to your yearly payments that you're making yearly from your crop.

Does that help answer your question?

CHAIRMAN KOPLAN: Yes, I appreciate that. I understand that you don't want to get into the details because of business proprietary information, but the balance of that you could give me in the post-hearing?

MR. JONES: That will be fine.

CHAIRMAN KOPLAN: Thank you.

Can I hear from others?

MR. BURTON: Mr. Chairman, our co-operative was not formed -- this is Ralph Burton, by the way.

CHAIRMAN KOPLAN: Thanks.

MR. BURTON: Excuse me.

CHAIRMAN KOPLAN: That's okay.

MR. BURTON: Our cooperative was not formed during the time period that you stated, but just prior to that. We became a cooperative in '97.

If you look at this chart, our group decided that the opportunity was there in '97 and you see the prices were the highest on that whole chart and, as I indicated in my testimony, I think I can suggest without being proprietary that we purchased 225,000 shares. That was what we felt we needed, that was the capacity of our factories and our growers paid $400 a share for that right and obligation to raise beets and have that opportunity.

In addition, they acquired some additional debt from banks and from the seller, to the point that their total commitment both as owners of the factory and on their individual farm debt was in the area of $270 million.

CHAIRMAN KOPLAN: Was this all prior to 1999?

MR. BURTON: This was all prior to 1999. But I'm suggesting it answers your question.

Now, when you have -- the idea was that the profits of the cooperative, the company that they purchased, would pay the debt, would pay the bank debt. They acquired some extra farm debt. Prices, as you see, then dropped to the point now where farmers, being owners, they have to pay the bills of the factory, plus they have to pay their own bills and so they have acquired copious amounts of debt and low prices makes it really tough to run a budget when they've got to pay $50 an acre back for their personal borrowings plus they're having to subsidize what they thought was going to be a business that would pay for itself.

CHAIRMAN KOPLAN: Thank you.

Are there others that want to join in?

Does that cover it?

(No response.)

CHAIRMAN KOPLAN: Thank you very much.

Dr. Manning, on page 48 of your pre-hearing brief, you allege a decline in U.S. production over the period under review based on USDA data, but the commission staff used producer questionnaire data as shown in Table C-1 of the staff report that reflects double-digit increased production during crop years '99 to 2004.

Can you explain to me why I should consider the USDA data more reliable than what we relied on in Table C-1?

MS. MANNING: I would have to go back and look at the differences in that production to really be able to tell you the difference. I know the USDA collects data much like the commission did and I can't really tell you why there is a difference at this point, but I will look into that.

CHAIRMAN KOPLAN: Would you do that for me post-hearing?

MS. MANNING: Absolutely.

CHAIRMAN KOPLAN: Thank you very much.

Ms. Cofrancesco and Dr. Manning, on page 25 of your pre-hearing brief, you state, and I quote, "The system," and here we're referring to the E.U. sugar support program in its current form, "also fosters large volumes of excess sugar production for export which has earned the E.U. the position of the second largest exporter of sugar. Thus, as the world market price declines, there is a corresponding increase in the amount of export subsidies payable to the European sugar producers under the CAP."

But world prices have not gone down over the period of review. On the contrary, they have gone up. I'm referring to Table 5-2 in the public version of our staff report.

As a result, haven't the amount of export subsidies payable to subject sugar producers gone down?

MS. MANNING: Offhand, I do not know the answer to that question. I'd have to look at it and get back to you in the post-conference brief.

MR. RONEY: Commissioner, Jack Roney. As I look at the pre-hearing brief, I think that what we were trying to capture here was --

CHAIRMAN KOPLAN: I didn't hear that.

MR. RONEY: What we were trying to capture is that when the world price declines export restitutions go up. I don't think we were trying to imply that the world price has declined since 1999, but that's basically trying to capture the fact that export restitutions become more expensive as the world price declines. It's that relationship. World price goes down, export subsidies become more expensive.

CHAIRMAN KOPLAN: I appreciate that.

And then if you still want to add to that in the post-hearing, I welcome it. Thank you, Mr. Roney.

Let me just ask you a quick one, Dr. Manning. I see my light is about to come on.

In your prepared statement, you state that "Operating and financial indica of vulnerability exist today as it did five years ago. The data show an industry experiencing ups and downs within a relatively narrow range throughout the period but never showing any sustained positive trend since '99. In most cases, these indicia of vulnerability show a weakened industry in 2004, compared with 1999." That's the quote on page 2.

I refer you to Table 3-7 at page 3-14 of the staff report and what I'm looking at there is that the trends don't appear to be up and down. The trends appear to be up. And I will also mention to you although it's not available to you yet, but in the final staff report, I think you will find that there will be additional tables that similarly reflect that the trends are up now and not fluctuating the way you seem to be referring to. So I just call your attention to that and if you want to take a look for me for the purpose of the post-hearing at Table 3-7, maybe you could clarify that for me in the post-hearing.

MS. MANNING: One comment that I would make, Mr. Chairman, is this is the U.S. processors/refiners table and as the staff pointed out, there is some distortion of this table due to differences in reporting by cooperative members versus non-cooperative.

If you look at -- I'll refer you to page 3-12 of the staff report, I won't go into detail, but I would urge you to take a look at the business confidential version and I think it shows a slightly different story than the data that is contained here.

CHAIRMAN KOPLAN: I'll go back to that and take a look. Thank you.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

With regard to the point that the chairman had ended on, Ms. Manning, I have had a chance to take a look at that and, as I understand it, the staff is preparing additional charts to help us understand the difference in the numbers when you take into account the processors and make some assumptions on that, so we'll look forward to your comments on that once you have a chance to look at it as well.

I guess I want to go back -- I, of course, did not participate in the first review, I was not on the commission when the commission reviewed the order the first time and I've had the opportunity to go back and look at their opinion, and so I have followed with interest some of the questions you got, in particular, Commissioner Miller's question to you of the way the commission analyzed the case the first time around and whether you saw that as an appropriate way to do it this time around.

And so, Mr. Clark, I want to go back to a couple of things that you said and I know that Chairman Koplan had also referenced that the commission had looked at the spread between the world price and the U.S. price taking into account the tariffs and had focused on this 1.2 percent spread. If you go back just looking over the year, a yearly world price, a yearly U.S. price, to me, since 1999, you barely get close on those three. You don't even get to the same number the commission was looking at, you get to a different number than you had in '04 or '02, but it's still a .26 percent spread as opposed to a 1.2 spread.

And so I wanted to see if there's anything else you would add to that. I mean, once is when I'm looking at this on a yearly basis is that distorted because in fact if I looked on a monthly basis that you would have seen the opportunity for E.U. traders to have the incentive to come into the market on a more frequent basis? That would be my first question, how I should be looking at this.

MR. CLARK: We do have the information that shows the monthly volatility in prices and it wouldn't be surprising to see that you have a pattern that shows a similar trend, but with spikes up and down that are very different. So you can draw a baseline through that and you can see the spike opportunities downward where you would have a convergence and there would be the opportunity for a trader. And we will provide that in the post-hearing brief, both points in time where that could occur.

VICE CHAIRMAN OKUN: Okay, I appreciate that.

And then if we can turn back, I know you've been able to respond to a number of questions about, well, okay, if the commission decides to look at this spread again, what's going to happen, both on the U.S. side and on the world price side? And the one thing, Mr. Roney, I just wanted to raise one thing. You've talked a lot about Brazil and, again, I'm trying to understand how the different relationships play out of whether the E.U.'s sugar would move and whether it would, as I think Commissioner Pearson said, would it be more likely that actually the sugar that would be coming in would be coming from another country, not the E.U.? I'm just trying to make sense of how you perceive that.

You had mentioned Brazil and I'm looking at the LMC commodity bulletin for June 2005, which I understand is something that the industry would reference or would look to and you may have other information as well, but what it says about Brazil is northeast Brazil is forecast to have a smaller exportable surplus from its '05-'06 crop and all signs are that total exports from Brazil from July to next

April will be less than they were during the corresponding year of the '04-'5 season.

The same report talks about China running on reduced stocks and that they may have to import more sugar in recent years.

So I want you to help me understand again how you see the world market and its impact on world prices and how to evaluate that.

MR. RONEY: Thank you, Commissioner. The north northeast portion of Brazil only accounts for about a fifth to about a fourth of their production. The bulk of their production is from the center south.

VICE CHAIRMAN OKUN: Total exports from Brazil will be lower than what they were.

MR. RONEY: Oh, okay. I'm sorry. Okay. I misunderstood. I thought it was just the exports from north northeast. Yes.

So Brazil has just had a phenomenal year of exports. According to USDA, they exceeded 18 million metric tons. It's conceivable that they might not duplicate that in the coming year depending on what their production is and how much is available.

The world market continues to be marked by an enormous amount of uncertainty where relatively small shifts in supply or demand can have an extraordinary or great effect on prices, a disproportionate effect on prices. And that again comes back to the notion that this is not a market that reflects the cost of producing sugar. You would expect to see more stability in a market where the price reflects the cost of producing that product, but since we're still looking at a market that's dominated by dumped supplies, dumped surplus supplies, you can't really necessarily take the attitude that because prices have run at a certain level for this number of years that we can expect production to go up or down. It really does become more of a function of political decisions

You mentioned China. China's imports are one of the most confounding things to predict. I'm sure Commissioner Pearson remembers this from years with other various commodities, that there is a tendency to look at the population and income growth in China and you can just do the charts that say, aha, well, the increased imports will be -- but that's a totalitarian system there, it's a command and control economy, and the decisions are not based on rising population or income, but based on government decisions as to what type of consumption to foster or discourage.

So you just don't really -- you can't really predict from year to year how much China will import. It's always tempting to think that they'll import enormous amounts based on their population and income growth, but if the government decides otherwise, that simply won't happen.

By the same token, the government could decide suddenly to import large amounts and that would have an effect as well.

I worked in commodity analysis at the Department of Agriculture for 15 years before joining the sugar industry and we never found a more confounding market to try to forecast than sugar, mainly because of these factors, that they just don't respond to normal supply/demand factors because it's basically a residual market, basically a surplus disposal or dumping ground.

VICE CHAIRMAN OKUN: Okay. And I guess, Mr. Roney, as you say, this gets me back to this point. When I listen to you, it is that you wouldn't pay much attention to the spread because you think the E.U. has to send the sugar somewhere, so even if it had to pay the 16.21 to send it here, it would do that once you get over what was referred to in some of the testimony as the marginal -- I may have the wrong word here -- that the CVDs and the antidumping duties were what were preventing them from shipping it now. That wasn't your statement, but it was someone else's in their testimony, so maybe if I could hear a little bit more on that.

MR. RONEY: Commissioner, I think we are a market of opportunity for the E.U. because of the proximity. Certainly we're closer to them than any major industrial market with the possible exception of shipments across the Mediterranean into North Africa, but you don't have as much capital there, the demand isn't as high and the ability to off load the sugar is not as sophisticated as here.

So it would seem to me that we would -- and this is why we went through this in the 1970s, because that was when Europe was first generating surpluses of sugar and I think what we saw then immediately was how attractive the U.S. market was with adequate shipping across the Atlantic, very sophisticated ports and a very large and relatively wealthy population demanding product.

So I think that we would be an appealing target for E.U. subsidized exports to whatever extent they thought it possible to get in here.

VICE CHAIRMAN OKUN: Okay. And then let me just ask you on E.U. exports specifically because, again, we had -- the USDA projections, which are in the staff report at 4-8 for E.U. indicate that exports in '05-'06 will be less than exports during the '99-2000 period and '01 and much more like the '02-'03. And if that's accurate data or if you agree with that data, I guess my question would be if I look at world prices, I don't see world prices during that period being depressed, they seem to be around still this 10 to 11 cents, why we would see changes or why we would see a lower world price in '05-'06 if E.U. exports are less and perhaps Brazil's as well?

MR. RONEY: I would imagine that would be a function, Commissioner, of the demand side, that we're not seeing adequate income growth or demand growth to foster any kind of an increase in price, even as exports are declining.

I think probably more recent data that Dr. Blamberg has come across in talking with folks in the trade who are monitoring this more closely on a day-to-day basis suggest that E.U. exports will probably be larger than USDA is predicting at this point.

VICE CHAIRMAN OKUN: Okay. And is that data that was in your pre-hearing brief? I did look through there, but are you talking about more recent data than what I've seen so far, Ms. Blamberg?

MS. BLAMBERG: It's the latest data that I've been citing orally, it's based on a report by the well respected European sugar analyst, German sugar analyst, the company known as F.O. Licht, you may recognize the name. In a late April report, when they assessed the size of the crop and changes within the E.U. allowing more imports under various restrictions, they used the phrase "going into the next crop year" and this was in my testimony, it was not my phrase, it was theirs, "bloated stocks" and that exports would be at record highs in '05-'06.

It's not in our pre-hearing brief because I didn't come across the article until I was preparing last week and I apologize for that.

VICE CHAIRMAN OKUN: I didn't recall seeing that, but if you can make sure we have that?

MS. BLAMBERG: We can make it available to you if you would like to see it.

VICE CHAIRMAN OKUN: Okay. I would appreciate that and I appreciate all those answers.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman.

Let me go to a couple of other questions I want to ask. I think I heard enough discussion about some of the different issues affecting prices in the U.S. and in the world that I don't have anything further on that, but I want to ask a couple of questions that I think are relevant to our understanding of the industry's condition.

Dr. Blamberg, you in particular, you referenced the closure of nine cane mills between 2000 and 2005 and you said that those accounted for 30 percent of the industry. And just your comments about closures in the industry, I wanted to make sure I understood the nature of those because I don't think that our record on production and capacity is really consistent with that and I know the chairman asked some questions earlier, I think, of Dr. Manning relevant to that. But help me understand your quote.

When you talk about 30 percent of the industry, you mean 30 percent in terms of just numbers of facilities or --

MS. BLAMBERG: I'm sorry. Now I've got my microphone on. Numbers of facilities, yes.

COMMISSIONER MILLER: Okay. So if our

numbers don't show a decline in capacity or production in terms of just absolute tons, how would you help us understand that?

MS. BLAMBERG: Well, with respect to the cane mills, I'm going to ask my colleagues Mr. Breaux and Mr. Bearden to address that because I'm not as comfortable talking about cane mills as I am refineries.

In refineries, the 20 percent decrease that I counted was in number of factories, but I would suspect that if one did a pro rata share by capacity of refineries, it might well be larger because the two plants that closed, the Sugarland, Texas and the Brooklyn, New York plants were both very large refineries.

COMMISSIONER MILLER: Okay. And I just wanted to see whether that fists with the numbers that we have in our staff report and, if not, why not. Perhaps you could try to look at that, Ms. Manning, and help us understand that.

Mr. Breaux, would you like to comment on the question about mill closures?

MR. BREAUX: Yes, we grow sugar cane and we have raw sugar factories where I'm from.

We had two mill closures this year. Both of them were co-ops. The acreage of land that was delivering cane to those two mills were absorbed by the other co-ops and private mill in the area. As a result of that we're expanding the size of our co-op to take on the increase in tonnage from those closures, and that happened this year.

COMMISSIONER MILLER: So in other words some of the closure facilities, it hasn't really reduced the overall capacity or production. You talked about expansion.

MR. BREAUX: In order to survive in this industry with these type margins you have to have a larger facility to process the cane. That's facilitating some of the closures, and we have to do it with the tight margins in order to survive as a co-op.

COMMISSIONER MILLER: Exactly. Okay.

Mr. Roney, you reference some forfeitures that occurred in I guess it was the 2004 crop year --

MR. RONEY: Yes, ma'am.

COMMISSIONER MILLER: -- as sort of one of the things you would point to in terms of the vulnerability of the industry. Those numbers that you included in your, I guess it was your pre-hearing brief, how would those compare with previous years?

Have there been forfeitures -- Obviously with the prices way up there, you weren't likely to have forfeitures --

MR. RONEY: Commissioner, forfeitures have been fortunately quite rare for the industry. Generally since 1985 when we first established a no-cost sugar policy where the government was given the requirement to try to manage supply and demand such that there not be forfeitures, we've had very few. The notable exception being the year 2000 when we had about a million tons of sugar either forfeited to the government or purchased by the government to try to avoid forfeitures which proved not to be adequate.

So the 40,000 tons we've seen this past year relative to the disaster year of 2000 is not a large amount. Nonetheless, we think it's highly significant to reflect the fact that even with marketing allotments in place, prices have been relatively low. That block that you see on this chart refers to the forfeiture range. That's the Department of Agriculture's calculation of what market price is needed to make producers indifferent to whether they pay back their loan or forfeit it. And it varies by region. That's why you have the range there.

What you can see is that for much of 2004 prices were deep within that forfeiture range, and that was why you ended up with producers, as it turned out, in Idaho and Michigan that did forfeit some sugar.

So I think that's very telling because what it reflects is these producers basically operating on the brink of profitability and on the brink of whether they can repay their loans with interest or are more induced to forfeit their crop to satisfy the loan.

COMMISSIONER MILLER: Okay. So there really hadn't been, in the last few years prior to these that occurred in the 2004 crop year.

MR. RONEY: Between 2000 and 2004 there were no forfeitures.

COMMISSIONER MILLER: Okay.

Mr. Burton, did you want to comment?

MR. BURTON: I do. We as a company came very close to -- We had sugar that we could have forfeited in April and also in May and we consciously looked at that and we were very very close to being able to forfeit. But the sense was we might see this little uptick and we thought well, since the USDA isn't going to pay much attention to us anyway we will with this small amount of sugar, we'll gamble and think, rather than sell it today to the government we may get a better price toward the end of the year. But keep in mind there is copious amounts of sugar out there that are still in, what do I want to say, possibility of forfeiture. These loans will come due in August and September and that will be the day of reckoning.

COMMISSIONER MILLER: For the 2005 year.

MR. BURTON: For the 2005 crop.

COMMISSIONER MILLER: I'll admit, I haven't asked this question but I keep looking up there and seeing how after all this movement we have this straight line here, and then we get a little jaggy. I don't really understand that very well. I might as well ask the question since I'm not sure I have another one to ask at this point.

What explains that behavior? It's so noticeable when I look up there that it flattens out the way it does.

MR. BURTON: Maybe John Doxsie, being a marketing guy. From my standpoint, it's kind of like there's a bid and an ask, and even though that looks pretty good I don't think there's too many people buying sugar at those prices yet. We still have a lot of block stocks and I think the users if they're worth their salt are thinking there's going to be cheaper sugar yet to come.

COMMISSIONER MILLER: You're talking about that little blip up.

MR. BURTON: I'm talking about the blip up and the little blip down. These prices are, I think are relative. I don't know that they call somebody up and say what do you think the price for sugar is today and it may or may not be a delivered price. There may be some discounts involved. So it gives you a sense but I don't think it's totally precise.

COMMISSIONER MILLER: Mr. Doxsie?

MR. DOXSIE: Commissioner, I think what happened is the buyers and the sellers began to understand the overall allotment quantity and how that was working, and so there was, I think there has been a little bit more of an understanding of that supply/demand relationship as we've gotten into this use of the overall allotment quantity over a couple of years, and that has created a little more stability in the marketplace. At low price levels, but stability nonetheless. I think that in part explains why there has been that relatively straight line there at the end of this time period that you see.

Again, it's a better understanding both on the part of the buyers and the sellers of the fundamentals of the marketplace.

COMMISSIONER MILLER: Thank you. I appreciate your answers and I just kind of go to the issue of vulnerability which you've addressed a good bit in your testimony today.

Looking at the prices, I believe the Chairman asked you some questions that you were going to amplify on the different ways we look at the financial information in your post-hearing brief, and I think that would be useful. At least that initial table suggests a kind of operating results that normally the commission wouldn't, or at least I haven't found to be an industry that I would describe as being in a weakened state which is what vulnerability means for us. It's not just how susceptible you are to imports down the line, but whether the industry is weak at the point we're looking at it.

I have no further questions at this point. I appreciate your answers.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner HIllman?

COMMISSIONER HILLMAN: Thank you.

I guess I'd like to pick up a little bit on this issue of vulnerability as well, and just to make sure I understand your take on the data.

Let me start with the issue of costs. A number of you have described the fact that you perceive yourselves to be somewhat more vulnerable because your costs have been increasing, and yet I will say if I look at the data that we have on our record in terms of, and again, I'm looking at the processors you're describing in your brief at least, an increase in labor, energy, overhead, compliance, et cetera. I have to say looking at our data, I see our unit labor costs looking like they've gone down and our cost of goods sold and SGNA expenses lower in 2004 than they were in 1999. A slightly different picture for the millers, and it's obviously even much harder for us to get our arms around the data for the growers and others.

I've heard your testimony in terms of you perceive that your costs have gone up. I have to say I don't know that that really squares with our data. So I'd like some better understanding of how it is that we're to view this industry as vulnerable. You've discussed these cost increases. I'm not seeing them necessarily here. The data we're looking at, we're seeing a consistently profitable industry, whether we're looking at grower processors or whether we're looking at millers. So I'd like to hear a little bit more on why you think we should come to the view that you are in a vulnerable state.

MS. MANNING: I guess the point that I would make is that the process and refiner data as we've talked about, as it appeared in the public version of the staff report, is problematic because of the differences in the structure of processors and refiners. So what I would point to is on my miller and grower margins which is on Slide 29, shows that in 2004 in fact the net income margin for I believe it's the grower has declined and is below the level that occurred in 1999 at the beginning of the period of review.

COMMISSIONER HILLMAN: For growers.

MS. MANNING: For growers. The same is true for millers. Although there is a small uptick between 2003 and 2004 for the millers' operating income, again it shows that it is below the level that occurred in 1999. That's why our statement that it is in a weakened position at the end of this period versus at the beginning of this period for the growers and the millers.

These margins reflect, again, the increase in costs against a basically flat or slightly declining net price.

COMMISSIONER HILLMAN: Obviously I have in front of me the data done these various different ways which we have asked you to comment on in terms of what is the best way to look at the data for the processors and the refiners. They would all, however, show certainly -- no matter which way we look at it -- a clear, positive operating income and a increase in the level of operating income in 2004.

So taking that as our look, I'm still trying to understand how it is that we get from there to a vulnerable industry.

Yes?

MR. BURTON: Ralph Burton. I think in my testimony I referred to increasing costs. It's clear to me that every time we have a union negotiation our labor costs go up. When the stock market doesn't perform well, our pension contributions go up. Our costs of raw materials go up as a unit.

Now industry, in our particular company, and I'm speaking for the industry as a whole, we have had to do better and become more efficient, and quite frankly we've exhausted most of the low-hanging fruit for improving the efficiencies of our operation. We can put in packaging equipment that you'll spend $3 million and eliminate some labor, but you get to a point where there's only so much of that you can do and the costs keep rising and the revenue isn't. So the profit margins as we spoke here become thinner and thinner.

COMMISSIONER HILLMAN: I hear your answer. My problem is in actually looking at the numbers, and some of them are confidential but some of them are not. That's just not what the numbers are showing. They're clearly showing cost of goods sold going down, and SGNA expenses basically holding steady in the most recent years. So I hear what you're saying, I'm just trying to square it with the data on here.

Mr. Jones?

MR. JONES: Yeah, Terry Jones.

I would like to comment just a little bit about comparing 1999 to today's profit margins. One of the biggest things in addition to our increased labor, machinery, fuel, fertilizer what have you, the costs, are that each year that we're into this cooperative we're spending 50 to 60 bucks just to, as we purchased the cooperative. Per acre. so you see quite a decline there too.

COMMISSIONER HILLMAN: All right. I appreciate that. And given the degree of --

MR. JONES: And that's talking about the net.

COMMISSIONER HILLMAN: I understand. I appreciate those comments.

If there's anything further you want to add in the post-hearing brief, that's fine, but if I can then go back to this issue of the price volatility and what's driving price changes. I think we've heard very clearly that what the Commission should be looking at in terms of whether revoking this order is going to result in a significant increase in the volume of EU imports having a price effect in the U.S. market really does depend on this issue of price. Mr. Roney, as you've said, what we really are looking at is tier 2 refined sugar which has to get over that 16 cent difference.

Which drives me to the issue of how much volume will it take to push prices down to the point where again, that gap is closeD? To me that is really the fundamental question here. I'm trying to make sure I understand it.

As you're pointing out, I mean the last time we had this big decline in prices was in that '99-2000 timeframe, and yet if I look at what happened in that '99-2000 timeframe, you saw U.S. shipments of product go up by 1.4 million tons; and you saw imports go up by 300,000 which means you had a very significant increase in total supply into the market driving those price changes.

So I'm trying to understand how it is that I should think something significantly less than that in terms of volume from the European Union would still have the kind of price change that it would require in order to get prices down to the point where that gap is closed.

MR. RONEY: Thank you, Commissioner.

I think one of the things that I've discovered in studying the U.S. sugar market is how price sensitive the market is to relatively modest changes in supply. I want to correct a view that you expressed earlier, I don't want to misconstrue what we've been saying.

The period when we had the great price decline was not because we increased imports by 300,000 to 400,000 tons during that period, but rather that we could not decrease imports by that amount.

Traditionally the last time that there was an unusually large U.S. sugar crop in the late 1980s the import quota, the tariff rate quota shrank all the way down to 800,000 tons to compensate for, or to offset the increased production.

However in 1995 the Uruguay Round went into effect and that prevented us from decreasing imports below the 1.25 million tons.

So what we had in '99-2000 was the direct consequence of the 1996 Farm Bill which took off acreage controls for all crops and allowed producers of other crops to still receive decoupled payments on those crops while growing others. And there were no restraints at that time on beet and cane acreage and a remarkable number of producers shifted into beet and cane. That shot up our production. And in the previous world if the U.S. could have reduced imports by 300,000 or 400,000 tons, the market would have stayed in balance relative to past stocks to use ratios.

But because the USDA could not reduce imports below the 1.25 million tons, that's why we had this tremendous drop in prices. So that 300,000 or 400,000 tons is only about three percent, three or four percent of our market size and yet it depressed prices by 30 percent.

So I think that what history has shown, sadly for our industry, is that we are very price sensitive and that even relatively modest amounts of tier 2 sugar from the EU could have a fairly profound effect on the market. That would be exaggerated in a situation as we're in now where we are holding back from the market about half a million tons that could be triggered back onto the market if the EU imports push us past the marketing allotment trigger level.

Is that clear?

COMMISSIONER HILLMAN: I hear what you're saying. I'm still struggling with -- You're saying this is all different because we couldn't keep off this 300,000 tons. Again, I'm looking at the U.S. edition of the 1.4 million tons and trying to understand how it is that you're attributing the price declines to this inability to stop 300,000 tons as opposed to the price effect of the 1.4 million additional domestic shipments. That's what I'm struggling with is why I shouldn't be adding those two numbers together and saying that's what really drove the prices. It's not whether you could or couldn't take off 300,000, but the much greater volume of increased domestic shipments of sugar. That's the issue.

You're saying that you've seen that kind of volatility in domestic shipments in the past and it hasn't had this price effect?

MR. RONEY: What we've seen in the growth in domestic shipments is a reflection of a the growth in the U.S. market and the extent to which we have been able to satisfy some of that growth. So given that our production is growing roughly in proportion to our consumption, which ideally is the case, but obviously in the last couple of years has not been the case which is why we're holding back a half million tons, then that should leave imports relatively constant, but no lower than a certain amount.

So any marginal increases in the amount of imports could have a very significant effect on our supply/demand price situation.

COMMISSIONER HILLMAN: Okay. Thank you.

CHAIRMAN KOPLAN: Thank you.

Commissioner Pearson?

COMMISSIONER PEARSON: Mr. Burton, I think you indicated earlier that when your co-op was organized that the growers each put in $400 per acre basically to be able to have the right to grow beets for the co-op. What are those share rights worth now?

MR. BURTON: It varies. I will provide that for you in the post-hearing -- I'll provide that information for you but I don't think it would be appropriate for me to share that with you now.

COMMISSIONER PEARSON: That's fine. I don't know how public this information is. I'm relatively familiar with growers in southern Minnesota, Minn-Dak and American Crystal. Those guys always know about what their shares are worth.

MR. BURTON: They do, and I think ours is, but I don't necessarily want them to know what mine are worth.

COMMISSIONER PEARSON: I understand.

For purposes of the post-hearing, frankly, it might be useful if we could get information not just from Amalgamated but also from the other beet processors that have a similar structure such that we could see over a period of years whether the growers perceived that the residual value that accrues to them in the shareholdings is going up or down. If it's falling out of bed and the shares are now worth nothing, that's a clearer indication of vulnerability than if we've seen the shares rise from $400 to $2000 an acre. So anything that could be put on the record in that regard would be helpful.

MR. BURTON: We'll be glad to do that for you, sir.

COMMISSIONER PEARSON: Okay.

MR. JONES: Mr. Pearson, I'm Terry Jones.

I'd like to make one comment on that.

COMMISSIONER PEARSON: Please.

MR. JONES: I think one thing that needs to be taken into consideration is that when you mention the Red River Valley Group or Minnesota, is they're established cooperatives, pretty much in the 30 year range, where the erst of them actually have, close to half of the industry has been established in the last seven or eight years and so there's quite a difference when you have an established cooperative with some great prices back years ago compared to what we've got going on now. It's almost like two different ball games as far as the value of these shares.

I just wanted to throw that in.

COMMISSIONER PEARSON: I appreciate that. I think it's an important consideration, that there has been so much development over the past years. It's sometimes difficult to assess what's happening to the value of those shares because no doubt there's still some sorting out going on. But that would give even greater importance to the experience of the longer established co-ops because the hope would be that over time the newer co-ops, their performance would tend to reflect the performance of the older co-ops.

A technical question here. Does either USDA or USTR have authority to expand the size of TRQ imports if that's needed to meet U.S. demand for sugar?

Mr. Roney?

MR. RONEY: Yes, sir. They do.

COMMISSIONER PEARSON: So if the Department of Agriculture saw a tightness of supply developing, then they have a number of steps before they would likely allow the market to adjust in such a way that we would have over-quota imports. Because first they would release the block stocks. Second, they would allow an increase of TRQ imports.

MR. RONEY: Yes, sir.

COMMISSIONER PEARSON: Anything else that would happen? Or once those two steps are taken then is the next step if the market is still tight, over quota.

MR. RONEY: Those are the only two steps the department can take. They can address foreign supplies with the TRQ and domestic supplies through the OAQ.

USDA would set the import quota amount and then USTR would allocate the quota. That's how those functions vary.

COMMISSIONER PEARSON: Should we see that it's likely that USDA and USTR would take those steps in order to kind of maintain control of imports? In other words, I wasn't clear, take the step of expanding the TRQ amount in order so that they can control imports rather than saying no, we want to let the market sort it out by bringing in some over-quota?

MR. RONEY: Unfortunately yes, Commissioner, you're right, that you would hope that USDA would try to discourage that from happening by adequately supplying the market through the OAQ and the TRQ but the problems is that the second tier import amounts are completely out of USDA's control and they're more a function of not only what's happening purely in the market in terms of prices and differentials, but also the opportunities that traders may see to make a quick killing by taking advantage of a temporary change in premiums between raw and refined or whatever.

And again, I think the problem we face relative to the EU is when you have sellers that are relatively price indifferent, they just may have some volume that they're trying to get rid of, an opportunity may come up and USDA would have no control over that.

COMMISSIONER PEARSON: Your comment about the EU brings me to my next question. Could you clarify, when the EU grants export restitutions for sugar, are they destination specific or does the export of the sugar just get a restitution and is able to ship anywhere in the world?

MR. RONEY: Commissioner, I don't know. We'd have to dig that out for you.

COMMISSIONER PEARSON: It seems to me there might be some pressure within the EU governmental structures to discourage a large-scale export of sugar to the United States, just because some people here would object to that and it could create political difficulties between, across the Atlantic, and of course we have some experience with that anyway. It wouldn't be entirely without precedent in that regard.

If the EU has the ability to control the destination of its sugar exports I think we would have to consider carefully whether they would allow any discernable quantity to come to the United States given the sensitivities it would generate.

MR. RONEY: Commissioner, I would only comment that that may well be true if they do have that power of destination specific restitutions, but I'd also comment that they seem relative politically insensitive to that over the years when you consider the price depressing effect that the EU exports have had year after year on the world market, and the very debilitating effect it has on developing countries that rely on the world market for some portion of their exports. Certainly that's a public relations problem that the EU has managed to shrug off over the last 30 years of subsidized exports.

COMMISSIONER PEARSON: And I don't disagree with your basic thrust that the EU policy is unconscionable.

Ms. Blanberg?

MS. BLANBERG: I recall that EU restitution levels vary by exporter and on each occasion, but it's a transparent formula where the exporter in a sense bids a restitution level that he feels is necessary to make his exports attractive to the administrative body of the EU, but it's a transparent formula and is not related to the specific destination of the sugar, so there is no room for internal judgment, political considerations, that sort of thing. It's formula based, but it is on a bid basis.

Ms. Cofrancesco, how do you respond to the argument that if these orders are evoked the most likely reaction in the marketplace would be no reaction at all? In other words given the other restrictions, the TRQ restrictions on imports of sugar, are these orders on EU sugar no longer really relevant?

MS. COFRANCESCO: I would say that that is not true. If you take a look at when the orders were first in place, there was no quota, right? And so what happened was that you saw an immediate decline in imports to the United States. You have continued to see that there have been very few imports to the United States. I would say that that shows that it is the antidumping, countervailing duty orders that are keeping them out given what you've heard today about the prices and world prices and the relationship from the witnesses.

COMMISSIONER PEARSON: With the EU having no TRQ ability to ship into the United States it's not clear to me that these orders are having an effect, but in the post-hearing you may have a chance to elaborate on that.

If I could, just wrapping up here, in the post-hearing could you please outline the best case scenario in which it would be probable and not just possible that number one, there would be a wide gap between U.S. and world prices that would make over-quota imports economical. Number two, that USDA would regulate the sugar market or not regulate it in such a way that over-quota imports would be needed rather than TRQ imports filling the bill. Number there, that refined sugar from the EU would be the most likely source, or it would be more likely than not that the EU sugar would fill this excess demand in the United States, rather than imports of sugar from more traditional origins.

That's what I'm trying to wrestle with and I'll look forward to reading the post-hearing.

MS. COFRANCESCO: Sure, we'd be happy to provide that.

COMMISSIONER PEARSON: Thank you.

Thank you for the indulgence, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Counsel, for purposes of the post-hearing could you quantify for me the tariffs paid by EU subject producers in other likely export markets? I see you're nodding in the affirmative, Mr. Clark. Just for the record.

MR. CLARK: We will do our best, Mr. Chairman, to quantify that for you.

CHAIRMAN KOPLAN: I appreciate that. Thank you.

Mr. Roney and Dr. Manning. I was prepared to reference Appendix 12 to your response in Volume 3 of your response to the Notice of Initiation, but you've basically covered the content of that this morning. What I was looking at in that volume was the EU news release that was dated July 14 of 2004 that described the potential overhaul of the EU sugar regime.

But I still have a remaining question and that centers on the fact that one of the may CAP reforms for sugar is a reduction, would be a reduction of subsidized exports from 2.4 million tons to 0.4 million tons.

I know that you all have argued that the EU reforms are only proposals and will meet much resistance, but what I'm looking at in the sunset case is what's going to happen prospectively, and I'm wondering what evidence you might add to the record that nothing's going to happen in the foreseeable future. I've heard that argument, but is there any way you can come up with anything to document that?

MR. RONEY: Mr. Chairman, we could certainly try to provide some information --

CHAIRMAN KOPLAN: We're all trying to predict here.

MR. RONEY: Yeah. I would note that even the observation you just made, that's only a two million ton reduction in exports and they're exporting now five to six million tons, so that's a reduction in "subsidized exports" under the very narrow definition of the WTO of what is subsidized. While in a broader sense, and I think the WTO case has made this clear, that virtually all of EU exports are in fact subsidized indirectly because they're effectively covering the cost of production of their A and B quota. They can send out the C quota for whatever price it would bring indifferent to price.

But still, the EU reform packages that we're looking at are only calling for a couple of million ton reduction in exports, so I think it's extremely likely that we'll still see large volumes of subsidized EU exports in the years to come.

CHAIRMAN KOPLAN: Thank you.

Do you want to add anything to that, Dr. Manning?

MS. MANNING: The only thing I would add is that the EU has a history of looking at reforms of the CAP sugar program.

As we pointed out in our substantial response, the EU had made a proposal just in the last year and a half. That proposal went nowhere. they came up with another proposal here. There's already objections within the EU to the proposal as being way too draconian. There are objections. There was an article recently which we can provide to you talking about the European Parliament having some concerns with this reform.

So I think we would say there's likely to be perhaps some reform. We have no idea what the ultimate reform will be and what options the EU will have for looking at the effect of that reform and somehow backing away from it even after it's implemented.

We can address that in further detail in our post-hearing brief if you would like.

CHAIRMAN KOPLAN: That would be helpful. Thank you.

Let me stay with you and Mr. Roney for a moment.

This morning you both made reference to EU enlargement, the addition of the ten countries, having boosted EU production and capacity. But you haven't made any mention of the additional consumption that accompanies all that.

Will enlargement consumption increases outpace enlargement production and capacity increases? You haven't discussed that at all.

MR. RONEY: Mr. Chairman, I'm sorry I did that, but I left that out of my oral testimony for time. I do have that in the written testimony now we submitted today.

CHAIRMAN KOPLAN: You've got the time now.

MR. RONEY: I looked at that, and thank you for raising it. Based on USDA's assessment of production and consumption, what they found is that the production increase is outpacing the consumption increase by 1.5 million tons.

So the new EU ten are essentially producing, they're adding more to the production side than they are to the consumption side to the extent that it would suggest in terms of exportable surplus, an increase of about 1.5 million tons.

CHAIRMAN KOPLAN: Thank you for that.

With that I have no further questions. I want to thank all of you for your answers to my questions this morning. I also look forward to your post-hearing submissions.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you. Just a few more.

The first one I think is a follow-up to Commissioner Pearson's question about the restraining effects of the antidumping and countervailing duty orders versus the TRQ itself on limiting imports into the United States.

If you could as part of that answer take a look at the period of review. Again, if we look over quote imports during the period they've been modest, averaging about 27,000 short tons per year, most of which comes from Mexico. So I want you to take a look and then explain for me while the EU would be situated differently without the orders on, vis-a-vis other countries that could have been shipping during the period including times when the U.S. prices have been higher and more attractive. So if you'd just add that on I'd appreciate that.

The second thing, I just want to go back on the block stocks just for a moment. Mr. Roney, maybe you're the best one to take that. But obviously I think we've hard it from others as well. I want to understand the argument again, and I know this relates to the marketing allotments which we've had some opportunity to explore. But when you talk about the 500,000 tons, as I understand it that's, looking at page 14 of your brief, that's that cumulative two-year total from the '03-'04 and the '04-'05?

MR. RONEY: That was.

VICE CHAIRMAN OKUN: Okay. And then just help me, if I look at '04-'05 you see quite a big reduction in block stocks just on a yearly basis in '04-'05 to 291. And that is attributed to what? What do you see going forward I guess would be my question.

MR. RONEY: That would attribute to crop disasters for cane in Florida and Louisiana. Mr. Breaux alluded to some of the problems he had with excess rain. Florida ran into a hurricane, a couple of them, and that reduced cane production for '04-'05 to a level below their overall allotment quantity and enabled them to draw down the stocks that they had been holding in surplus.

So virtually all the sugar, all but 7,000 tons of the 506,000 tons that is block now is beet sugar.

VICE CHAIRMAN OKUN: Help me in terms of when, in looking at that impact on price, as I understand it USDA looks at the stocks to use ratio when predicting prices and that they forecast that the stocks to use ratio will decline significantly in '06 indicating that prices should rise.

But you've talked a little bit about not thinking that's very accurate. If you could expand on that just a little bit here, and perhaps post-hearing as well.

MR. RONEY: Having formerly been in the situation where I was making those forecasts at USDA, I'd be loathe to criticize them, but I would note that this is very early that they're predicting for a crop year that begins next October, and so there's a tremendous amount that can change with regard to especially production, but even consumption. We're less certain about consumption than we've been in the past. We think we're coming out of the period where we've gone from consumption declines to consumption increases. USDA is assuming that these consumption increases will continue. They're also presuming that we have relatively modest crops.

If, however, we had production larger than expected because of excellent weather the rest of the year or if, God forbid, consumption started to drop again, then that situation could change very rapidly. So these are forecasts.

VICE CHAIRMAN OKUN: Okay, but you then don't take issue with USDA how they would forecast if the stocks to use ratio is around the 15 percent or whatever number they use now, 15.5 percent? You don't take issue with that ratio, it's just that you think you're not as certain that that ratio holds for '05-

'06?

MR. RONEY: Yes, that's correct.

VICE CHAIRMAN OKUN: That's helpful, thank you.

A final question I guess I have is just, again, trying to understand the argument on the potential volume that could come in from the EU vis-a-vis the U.S. marketplace and the allotments. Because in your oral testimony today you talked a lot about it being the EU imports that would trigger off the allotments and then consequently you have the block stocks come on and that's where you see the price declines.

We haven't spent much time on Mexico today although I think there's rarely a sugar discussion where you wouldn't spend more time on Mexico than on the EU.

When I read your brief I had the impression that you also saw the Mexico situation as impacting, or interrelating what could happen with the EU. So I'm just trying to make sure that I understand. Is the argument, regardless of whether Mexico starts increasing and crushes the cushion, that the EU volume alone is enough to trigger the marketing allotments and cause material injury to occur, regardless of how

Mexico performs?

MR. RONEY: Yes, regardless of how Mexico performs. The EU would have the potential to trigger off the marketing allotments because the potential volumes are quite large. As you mentioned, the cushion of 250,000 metric tons could disappear more quickly than we expect it to because Mexico now has the sugar to ship, in which case it would only take a few tons of EU sugar to trigger off marketing allotments.

Even absent Mexican performance the EU certainly has the potential to send the 250,000 tons or more that in and of itself could trigger off the marketing allotments, even if we were taking no additional sugar from Mexico.

VICE CHAIRMAN OKUN: Okay, and then the other question I was contemplating up here which is if it is Mexico that triggers off the market allotments in the reasonably foreseeable future, prices go down in the U.S. under the scenario in the block stocks, does the EU still have an incentive to ship here?

MR. RONEY: I believe that because of their price insensitivity we would always be looked upon as a potential target market. Certainly if our price drops fairly dramatically we would be less so, but I think that they would always have an eye on us because of the transportation advantages. I think they'd always have an eye on us as a potential market because relative to the world market, world dump markets, we're still fairly attractive even if the U.S. price comes down just a few cents. We're still likely to be above the world dump market level.

VICE CHAIRMAN OKUN: My last question for post-hearing for you, Ms. Cofrancesco, is with regard to the reasonably foreseeable future with an agricultural product such as this if you could cover that in your post-hearing brief, and I'd appreciate it if you use your industry experts to inform how we should do that analysis. I'd appreciate that very much.

MS. COFRANCESCO: I sure will.

VICE CHAIRMAN OKUN: Okay, and with that I have no more questions for this panel, but I very much appreciate the time you've taken to be with us today and to answer our many questions.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Miller?

COMMISSIONER MILLER: I have no additional questions. I too appreciate all the information you've provided today and prior to the hearing and as you will undoubtedly after the hearing. Thank you.

CHAIRMAN KOPLAN: Commissioner Hillman?

COMMISSIONER HILLMAN: I hope just a couple of quick follow-ups.

One, on this issue of the amount of volume that triggers what level of price increases, the Commission has obviously done a lot of studies in and around various free trade agreements and other programs and found, as I understand it basically, one fairly recent study on this issue of how much volume triggers how much price increase, a particular study coming out of LSU.

I'm only asking if you're aware of whether there are any other studies out there that could be put on the record that have looked at this issue of how much volume of imports causes X amount of change in prices in the U.S. market? Are there other academic studies out there?

MR. RONEY: Yes, Commissioner. One by North Dakota State University and another by the University of Florida and we'd be happy to forward you copies of both of them.

COMMISSIONER HILLMAN: If they're readily available to you and could be provided, I think that would be very useful.

MR. RONEY: I'd be glad to do that.

COMMISSIONER HILLMAN: A second question, just to make sure I understand it, the WTO's recent ruling with respect to the European Union that indicates that their so-called C-sugar benefits from cost subsidies between the A and the B-sugar, and therefore I'm trying to understand whether that has any implications for their ability to export significant amounts of this C-sugar given that, as I understand it, it now will fall under the WTO required export cap of 1.3 million metric tons.

What is the effect of the WTO ruling in your view?

MR. RONEY: It's still, I think the EU is still trying to sort that out, Commissioner, how to respond to that. I believe they see the latest reform proposal as something that they'll waive in Hong Kong this year saying yes, we're on our way to resolving this.

But I think they've still got a problem in how to deal with that. I'm not sure they've really sorted it out yet themselves. It does seem likely, however, that they will still be exporting pretty significant amounts of sugar over the coming years, that they can postpone the reaction to the WTO case if they're showing movement in that direction and they still have substantial volumes of sugar to get rid of, even with production decreases potentially in the EU. You've got the increased imports that they've also got to deal with somehow.

COMMISSIONER HILLMAN: Last question. Let's just say that we all share Commissioner Pearson's view that the EU program on sugar is unconscionable, to use his words. As a legal matter how do we, can we take that into account in the sunset determination when the statute, again, is pushing us to look at what's the volume of imports, what's the price effect, what's the vulnerability of the industry?

Is there an appropriate way within the statute to take into account the EU program and its effect sort of more broadly? That's more sort of for the post-hearing if there's anything you want to say about that issue of how if at all are we permitted to take that into account.

MS. COFRANCESCO: Sure, we'd be happy to discuss that.

COMMISSIONER HILLMAN: With that I have no further questions but I would join my colleagues in thanking all of you very very much. It's been extremely interesting, informative and very helpful to have those of you that are in the industry with us this morning. Thank you very much.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Are there any other questions from -- Yes?

COMMISSIONER PEARSON: No questions, Mr. Chairman, but let me just express my appreciation to the panel. I have great respect for all of you who make your livings in the highly regulated marketplace that we have here in U.S. sugar and I share Mr. Roney's concerns about the global sugar marketplace which, what we see in world sugar is amalgamation of whole lots of policies by a whole lot of governments. And what we're seeing in the global sugar market doesn't tend to have a whole lot to do with the marginal cost of production of sugar in the world or the marginal propensity to consume. We're not in an economic sense getting a nice convergence between those two in determining the global price of sugar.

I would just comment finally that that unfairness no doubt, the unfairness of the global market has no doubt had a lot to do with the fact that when Mr. Roney and I started working on these issues we both had much much less gray hair than we do now.

Thank you.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Ms. Mazur, does staff have questions of this panel?

MS. MAZUR: Mr. Chairman Doug Newman, our industry analyst, has a few questions.

MR. NEWMAN: Thank you. Doug Newman, Office of industries.

Just one question with respect to the current level of blocked stocks, say 500,000 tons. How would this compare to what the industry would normally carry as inventories, they would be considered a customary inventory levels.

MR. RONEY: Thank you for that question.

We would regard the block stocks as being above what levels the industry would normally carry.

CHAIRMAN KOPLAN: You need to stay with your microphone.

MR. RONEY: You would normally expect, I think Commissioner Okun referred earlier to the standard 13 to 15 percent stocks to use ratio as reflecting normal carryover stocks, and basically pipeline stocks. But what we find with the block stocks is that these are stocks above and beyond what those companies would normally wish to carry just to maintain their customers and pipeline inventories.

I wonder if Mr. Burton would want to comment on that further.

MR. BURTON: We probably own the biggest share of those block stocks and I would suggest to you that our block stocks are twice, maybe three times, I'm not sure how you work that, but of what our normal carry inventory is. Costly.

As a matter of fact that's one of the reasons why our growers opted to take the painful, make that painful decision of reducing acreage in the 2005 crop from not planning 100 percent of their acreage to planting only 84 percent of their acreage in order to address a program to reduce those block stocks.

MR. NEWMAN: Thank you.

MS. MAZUR: Staff has no further questions.

CHAIRMAN KOPLAN: Thank you.

Thank you for asking that question.

This brings us to our closing statement, Mr. Clark.

MR. CLARK: Thank you, Mr. Chairman, members of the Commission, for your kind attention today.

To conclude our testimony I'm going to review some of the, what we consider to be the critical elements. Let me start with something that should have been obvious from the beginning.

What you have appearing before you today is a completely unanimous industry. Cane growers, beet growers, cane millers, cane refiners, beet processors. We're all appearing before you today to explain that the maintenance of the antidumping and countervailing duty orders is in their perception quite critical and quite important to the long-term survivability of this industry. An industry that comes before you today completely untied and unanimous in its view to say we are more vulnerable now than we were when we were here six years ago in 1999.

There has been much discussion today about, for example, the phenomenon of marketing allotments. But what you've also heard is in this environment when marketing allotments have been in effect, that there have been forfeitures. We are a few months away from the time when loans will become due and the question of forfeitures for the current crop year, just as they existed for the previous crop year, will again arise.

The bottom line, marketing allotments are not a panacea. They have not been a cure.

During the period when we've had marketing allotments in effect, we have had reductions in employment, we have had cane refiners closed, we have had beet processors closed. We have seen a phenomenon and you've heard it in the testimony today where independent processors, and when we say independent processor what I'm describing about is a corporate entity, not a grower-owned entity. Corporate or independent processors withdraw from the market. They said this is not a business we can get an adequate return in.

What happened? The growers, having no other choice, because if there's not a processor to send your beets to, you're out of business. The growers got together, undertook colossal liabilities that may not manifest themselves at the level of the processor, but as you heard from Mr. Jones, very much manifest themselves at the farm level.

What do we have happening in the EU? We had a discussion about proposals that have been made and we also had a number of discussions today about what is the ability to predict and foresee, which is difficult. Legislative history and the statute recognize that this is an inherently predictive exercise and predictions are dicey things. But history informs prediction.

We had a discussion about the ability to foresee that we will have the convergence of prices that would create the incentive that you found six years ago. There is a history, and we will show it in the post-hearing brief, of convergence opportunities where the alignment of world price, U.S. price, and the tier 2 tariff creates opportunities to exploit the incentives that exist in the attractive U.S. market.

If we look at the EU proposal and we look at the history of agricultural reform proposals, you have to ask yourself the same counter-factual predictive question. Where does history tell you that you can draw a foreseeable likelihood that there will actually be reforms?

The reality as we sit here today is that the subsidies, the dumping that takes place on the world market are precisely as they have been throughout the period of investigation and just as you found them to be in 1999. When you predict from that history into the period of foreseeability, proposals that have met nothing but objection are not a basis to conclude that anything will be different. Conversely, there is a history of performance, of price, that enables the European Union, price insensitive that it is, because of its export subsidies and a support price mechanism that enables its producers to be insensitive to price and opportunistic, to exploit the opportunities when they will inevitable present themselves as they have presented themselves in the past.

So the totality of this is we have an environment as the industry comes before you today at every level, from grower through processor, to explain we need to retain these orders. When you look at the totality of the factual record, you look at the testimony today, it is reasonable in light of the record to conclude that European imports in the event of revocation are likely to occur.

You now have an environment when when that occurrence arrives in the U.S. market not only will there be the traditional price effect that's been described, but now we have an environment where those imports, the volume of them, putting price aside, has the extreme risk of triggering off marketing allotments and thereby compounding injury to the industry with injury to the U.S. income and price support program, something which is also cognizable under your statute.

The totality of the circumstances, therefore, is one where just as you found six years ago, it is reasonable to conclude that in the event of revocation, material injury will occur, that imports will increase, and these orders must be maintained.

On behalf of myself and the witnesses today we thank you for your kind attention.

CHAIRMAN KOPLAN: Thank you, Mr. Clark.

I also want to thank those witnesses who traveled a great distance to come here and participate in today's hearing.

Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by July 7, 2005.

Closing of the record and final release of data to parties, August 5, 2005.

Final comments, August 9, 2005.

With that, this hearing is concluded.

(Whereupon, at 1:14 p.m. the hearing was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Sugar from the European Union

INVESTIGATION NO.: 104-TAA-7 (Second Review)

HEARING DATE: June 28, 2005

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

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I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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