Department's Position

We disagree with petitioners' argument that the category of Rotem's assets entitled ''furniture, vehicles, and office equipment,'' requires any further examination by the Department. Rotem complied with the Department's request and provided information from its audited financial statements for use in the Department's company-specific AUL calculations. We note that the verification reports from the 1995 administrative review, which were submitted on the record of the current review, discuss the calculation of Rotem's company-specific AUL and its components. The information discussed in these reports is consistent with the information that Rotem submitted during the current review. Therefore, because respondent submitted its AUL information in the manner that the Department requested and this information has previously been verified and tied to Rotem's audited financial statements, we find no reason to change the calculation of Rotem's AUL for these final results.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1997 through December 31, 1997, we determine the net subsidy for Rotem to be 5.65 percent *ad valorem*.

We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in § 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993); *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the Act, as amended by the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See 1992/93 Final Results,* 61 FR at 28842. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1997 through December 31, 1997, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: September 7, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23776 Filed 9–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

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

[C–408–046]

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

ACTION: Notice of Final Results of Full Sunset Review: Sugar From the European Community.

SUMMARY: On April 26, 1999, the Department of Commerce (''the Department'') issued the preliminary results of full sunset review of the countervailing duty order on sugar from the European Community (''the EC'') (64 FR 20257) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments filed on behalf of domestic interested parties. As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the ''Final Results of Review'' section of this notice.

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

EFFECTIVE DATE: September 13, 1999.

Statute and Regulations

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

Scope

The merchandise subject to this countervailing duty order is sugar, with the exception of specialty sugars (*e.g.*, cones, hats, pearls, loaves), from the European Community. Blends of sugar and dextrose, a corn-derived sweetener, containing at least 65 percent sugar are within the scope of this order. According to the final results of the Department's most recent administrative review, the merchandise subject to this order is currently classifiable under item numbers 1701.11.00, 1701.12.00, 1701.91.20, and 1701.99.00 of the Harmonized Tariff Schedule of the United States (''HTSUS'') (*see* Sugar From the European Community; Final Results of Countervailing Duty Administrative Review, 55 FR 35703 (August 31, 1990). In their substantive response, the domestic interested parties asserted that the merchandise subject to the order is currently classifiable under item numbers 1701.11.0025, 1701.11.0045, and 1702.90.300 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Background

On April 26, 1999, the Department issued the Preliminary Results of Full Sunset Review: Sugar From the European Community (64 FR 20257). In our preliminary results, we found that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy. Further, we found the net countervailable subsidy likely to prevail if the order were revoked is 10.80 cents per pound, the subsidy from the original investigation. Finally, we found that, although qualifying as a countervailable export subsidy, Article 3 of the Subsidies Agreement did not apply to the export restitution payments program.

On June 8, 1999, we received comments on behalf of the United States Beet Sugar Association and its individual members and the United States Cane Sugar Refiners' Association and its individual members (collectively ''the Associations''), within the deadline specified in 19 CFR 351.309(c)(1)(i). We did not receive comments from respondent interested parties.

Comments

Comment 1: The Associations assert that the Department's preliminary determination that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy was appropriate and should be maintained for the final results. The Associations further assert that the Department properly applied the relevant standards, and the record in the underlying sunset review cannot support any alternative conclusion.

Department Position: We agree with the Associations. For the reasons enunciated in our notice of preliminary results (*see* Preliminary Results of Full Sunset Review: Sugar From the European Community, 64 FR 20257 (April 26, 1999)), we continue to find that revocation of the countervailing duty order would likely lead to continuation or recurrence of a countervailable subsidy.

Comment 2: The Associations assert that the Department correctly concluded that the export restitution payments on European sugar constitute a countervailable subsidy. However, they argue that the Department incorrectly concluded that the subsidies are exempt from Articles 3 and 6 of the Subsidies Agreement.

The Associations argue that the respondent foreign government and/or industry bears the burden of demonstrating that the export subsidy program at issue is in conformance with the provisions of Part V of the Agreement on Agriculture before the Department may properly determine that the program is exempt from Articles 3, 5, or 6 of the Subsidies Agreement. Further, the Associations assert that the European Commission failed to place evidence on the record or set forth arguments supporting the proposition that the restitution payment system under the CAP conforms to Part V of the Agreement on Agriculture. The Associations assert that in their substantive response they had presented significant evidence that the sugar restitution payments under the CAP have repeatedly been found to violate GATT/WTO principles. Additionally, they assert that they had presented further evidence showing that it is likely that the European Union (''EU'') will be unable to meet its GATT/WTO commitments to reduce the levels of these export subsidies, in light of the increasing gap between the EU and world price of sugar and the likely accession of ten new member states to the EU in the near term.

In conclusion the Associations argue that the EU's sugar export restitution payments most certainly constitute a prohibited countervailable subsidy, whether under Article 3 of the Subsidies Agreement or under Article 13(c) of the Agreement on Agriculture.

Department's Position: We disagree with the Associations' assertion that the burden is on the respondent government and/or exporters to provide evidence demonstrating that the export subsidy program at issue is in conformance with the provisions of Part V of the Agreement on Agriculture before the Department may properly determine that the program is exempt from Articles 3, 5, or 6 of the Subsidies Agreement. While the provision of such evidence would certainly aid the Department in its determination, failure of the respondent government to provide such evidence does not preclude the Department from finding that the program is in conformance with the provisions of Part V of the Agreement on Agriculture.

Further, we do not agree with the Associations that the evidence they presented regarding prior determinations is sufficient to find this program is a prohibited subsidy under the WTO Agreements. The Associations referred to prior determinations by Treasury, Commerce, the Commission, and the Canadian International Trade Tribunal, that export restitution payments under the CAP are countervailable subsidies. We agree that each of these determinations supports a finding that the program is a countervailable export subsidy; however, they do not address the question of whether the program is a prohibited export subsidy under the Subsidies Agreement. In addition, the Associations refer to the GATT Dispute Panel Report on Complaint by Brazil Concerning EC Refunds on Exports of Sugar (adopted November 10, 1980) and the GATT Dispute Panel Report on Complaint by Australia Concerning EC Refunds on Exports of Sugar (adopted November 6, 1979). While both of these adopted Panel Reports held that the CAP sugar regime constitutes a form of subsidy subject to the provisions of Article XVI of the GATT, neither of these reports addresses the question of whether the program is in conformance with the provisions of Part V of the WTO Agreement on Agriculture.

As to the Associations' assertions that falling world sugar prices and the pending application of ten new former Eastern bloc countries currently seeking admission to the EU make it, at best, uncertain whether the EU will be able to meet its commitments to reduce export subsidies, we find these allegations insufficient to support a finding that the program is not in conformance with Part V of the WTO Agreement on Agriculture.

Article 13(c) of the Agreement on Agriculture states that export subsidies conforming to the provisions of Part V of the Agreement on Agriculture shall be exempt from actions based on Article

XVI of GATT 1994 or Articles 3, 5, and 6 of the Subsidies Agreement. Part V of the Agreement on Agriculture, specifically Articles 8 and 9, refers to the export subsidy commitments as specified in the Schedule of each Member. Nothing on the record suggests that the restitution payments on sugar do not conform to the commitments as reflected in the EU's Schedule. Therefore, we continue to find that, although qualifying as a countervailable export subsidy, Articles 3 and 6 of the Subsidies Agreement do not apply to the export restitutions payment program on sugar under the CAP.

Comment 3: The Associations argue that the Department should make an upward adjustment to the net countervailable subsidy rate to arrive at a rate that represents the countervailing duty rate likely to prevail if the order is revoked. The Associations assert that the evidence set forth in their substantive response supports a net countervailable subsidy rate of 27.97 cents/pound of sugar and that even the data presented in the EC's response supports a net subsidy rate of 18.61 cents/pound of sugar. The Associations argue that, in the present case, because the investigation rate is based on data that is more than 20 years old and both domestic and foreign interested parties have provided the Department with more recent data establishing a current net subsidy rate of at least 18.61 cents/pound, there is sufficient cause for the Department to make an exception to the general rule of selecting the subsidy rate from the original investigation.

In conclusion, the Associations request that the Department make an upward adjustment to the countervailing duty rate likely to exist in the event of revocation to reflect the current prevailing rate of 27.97 cents/pound, or 18.61 cents/pound at a minimum.

Department's Position: In sunset reviews, the Department is assigned the responsibility of providing to the International Trade Commission (''the Commission'') the magnitude of the net countervailable subsidy that is likely to prevail if the order is revoked. For purposes of determining whether revocation of a countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs the Department to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. The Department noted in its Sunset Policy Bulletin that, consistent with the Statement of Administrative Action (''the SAA'')[1] at 890, and the House Report[2] at 64, the Department normally will select a rate from the investigation, because that is the only rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place (*see* section III.B.1 of the Sunset Policy Bulletin). Additionally, the Department noted that the rate from the investigation may not be the most appropriate if it was derived from a subsidy program which was found in a subsequent review to have undergone a program-wide change (*see id.* at section III.B.3).

The Department defines ''program-wide change'' as a change that (1) is not limited to an individual firm or firms and (2) is effectuated by an official act, such as the enactment of a statute, regulation, or decree, or contained in the schedule of an existing statute, regulation, or decree.[3]

As described in numerous **Federal Register** notices regarding the underlying investigation and administrative reviews, export restitution payments made under the CAP are a means of guaranteeing sugar producers a stated export price for sugar (see e.g., Sugar From the European Community; Preliminary Results of Countervailing Duty Administrative Review, 55 FR 28799 (July 13, 1990)). Further, export restitution payments are only granted when the world price of sugar as established in international markets is lower than the ''threshold price'' established by the EC. Changes in the world market price are not effectuated by the EC. However, the ''threshold price,'' the amount of restitution payments to be provided, are determined by the EC, effectuated by regulation, and published in the Official Journal. As such, these changes constitute program-wide changes that the Department may consider in determining the net countervailable subsidy likely to prevail if the order were revoked.

Therefore, in a change from our preliminary results, we agree with the Associations that the Department should determine the net countervailable subsidy likely to prevail were the order revoked based on more recent information. In its substantive response, the EC identified the average export refund for marketing years 1995/1996, 1996/1997, and 1997/1998. In its substantive response, the Committee calculated a subsidy rate based on the export refund rate from October 1998. Because, as the Committee argues, the world price of sugar has been declining since 1995, we determine that recent data would more closely approximate the level of subsidy if the order were revoked than would the subsidy levels from the original investigation or administrative reviews conducted in the early 1980's.

We do not, however, agree with the Associations' suggestion that a rate based on an October 1998 announcement is the most appropriate. Over the 1995–1998 time period, the average export refund has varied from year to year and we do not have a basis to select one year over the other as the most probative rate. Because we must provide the Commission with the rate likely to prevail in the future based upon past experience, we have determined that an average of the marketing year refunds since the implementation of the WTO Agreement on Agriculture, as reported in the EC's response, is an appropriate representation of the net countervailable subsidy likely to prevail if the order were revoked. On this basis, we find that the net countervailable subsidy likely to prevail were the order revoked is 23.69 cents per pound of sugar, the rate established by the record as reflecting recent trends in the level of export refunds.

Comment 4: The Associations argue that the Department's determination to conduct a full sunset review is plainly inconsistent with its own regulations, and will have the effect of rendering the provision of 19 CFR 351.218(e)(3)(ii) meaningless in all countervailing duty sunset determinations going forward. Specifically, the Associations assert that none of the foreign respondent producers filed any substantive responses to the notice of initiation and, therefore, the Department should have determined that it did not receive adequate response since it did not have complete substantive responses from respondent interested parties accounting on average for more than 50 percent of the total exports of the subject merchandise. Given that the legislative history contemplates that a response from the foreign government in addition to responses from the foreign industry respondents is essential to the sunset determination, foreign governments are not entitled to a full review where all of the industry participants that the government

[1] H.R. Doc. No. 103–316, vol. 1 (1994).

[2] H.R. Rep. No. 103–826, pt. 1 (1994).

[3] *See* 19 CFR 351.526 (1999), which although not applicable to this sunset review, nonetheless provides guidance on the Department's policy.

presumably represents have failed to respond.

In conclusion, the Associations argue that the Department should determine that a full review in this case was unnecessary and unwarranted.

Department's Position: We disagree. The Department's regulations do not require that the Department conduct an expedited review. Rather, the regulations provide that the Department *normally* will conduct an expedited review where it does not receive adequate response, where adequate response is described as responses from parties accounting for more than 50 percent of the volume of exports over the five years preceding initiation of the sunset review. The Department *must* conduct an expedited sunset review of a countervailing duty order only when the foreign government does not participate.

Unlike other countervailing duty investigations or reviews, where company-specific information is required in order to measure the amount of countervailable subsidy, the subsidy rate from the only program investigated over the life of this order has consistently been determined without the need for, or use of, company-specific information. Because adequacy determinations are made for the purpose of determining whether there is sufficient participation to warrant a full review, in a case such as this, where company-specific information provides no additional input into our determinations, we believe that requiring producer/exporter participation is not warranted. Therefore, in this sunset review, we continue to believe that the response of the EC forms an adequate basis for conducting a full review to determine whether revocation of the countervailing duty order on sugar from the EC will likely lead to continuation or recurrence of a countervailable subsidy and, if so, what the level of the net countervailable subsidy would be.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in the preliminary results of review. For the reasons set forth in the preliminary results of review, we continue to determine the country-wide net countervailable subsidy in terms of cents per pound. However, for this final, we find the net countervailable subsidy likely to prevail if the order were revoked is 23.69 cents per pound. Although qualifying as a countervailable export subsidy, Articles 3 and 6 of the Subsidies Agreement do not apply to the export restitution payments program under the EC's CAP.

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

Dated: August 27, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23040 Filed 9–10–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082699B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Florida/Alabama Habitat Protection Advisory Panel (AP).

DATES: The meeting will begin at a.m. on Tuesday, September 28, 1999 and conclude by p.m.

ADDRESSES: The meeting will be held at the Hilton Tampa Aiport Westshore, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Gulf States Marine Fisheries Commission; telephone: 228–875–5912.

SUPPLEMENTARY INFORMATION: The Florida/Alabama group is part of a three unit Habitat Protection Advisory Panel of the Gulf of Mexico Fishery Management Council. The principal role of the advisory panels is to assist the Council in attempting to maintain optimum conditions within the habitat and ecosystems supporting the marine resources of the Gulf of Mexico. Advisory panels serve as a first alert system to call to the Council's attention proposed projects being developed and other activities which may adversely impact the Gulf marine fisheries and their supporting ecosystems. The panels may also provide advice to the Council on its policies and procedures for addressing environmental affairs.

At this meeting, the AP will discuss revision of the Council's Habitat Policy to include essential fish habitat (EFH) provisions, an update on EFH assessments in Council fishery management plan amendments, an update on the status of the EFH lawsuit, impact of two new gas pipelines between Mobile, AL and central Florida, status of the new marine reserves off the Florida panhandle, and an update on Alabama's expansion of their artificial reef zone.

Although other issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. The AP's actions will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by September 21, 1999.

Dated: September 7, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–23798 Filed 9–10–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090799B]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a public meeting with the limited access permit holders in the golden crab fishery in the South Atlantic region.

DATES: The meeting will be held on Monday, September 27, 1999, from 1:00 p.m. until 6:00 p.m.

ADDRESSES: The meeting will be held at the Best Western, 411 South Krome, Florida City, FL 33034; telephone: 305-246-5100.