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[Analysis of the Effect of Loophole in Presidential Proclamation on Sugar]. CED-78-85; B-118622. March 14, 1978. 5 pp. + 3 enclosures (4 pp.).

Report to Rep. Robert H. Michel; by Henry Eschwege, Director, Community and Economic Development Div.

Issue Area: Food: Federal and State Regulations Impacting Food Marketing (1712); International Economic and Military Programs: U.S. Comparative Advantage in Trade and Technology (608).
Contact: Community and Economic Development Div.
Budget Function: Agriculture: Farm Income Stabilization (351).
Organization Concerned: Department of Agriculture; Bureau of the Census.
Congressional Relevance: Rep. Robert H. Michel.

The effect of the Presidential proclamation designed to protect the domestic price support loan program for sugar was reviewed. Bureau of the Census data show that November imports totaled 19,615 short tons of refined sugar, about 3% of the 1977 total, and December imports were 469,096 short tons, about 72% of calendar year 1977 refined sugar imports. Census data are published by month so it is not possible to determine what portion of November imports occurred after November 11, the date of the proclamation. Three countries provided more than 99% of January 1978 sugar imports: Brazil, Canada, and Guatemala. The quoted average wholesale price of both cane and beet sugar have increased monthly since October 1977; it would appear that the imported refined sugar has not caused prices to decline. The revenue not collected by the Treasury due to the absence of an import fee is estimated to be $30.2 million. It is not possible to determine the expected cost to the Treasury under the loan program. Industries that use refined sugar as an ingredient include: beverages, confectionery products, bakery and cereal products, dairy products, and processed foods. Information is not available on who has benefited from refined sugar imports since the Census Bureau data on imports do not indicate either the importer or the ultimate purchaser. (RRS)

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

RELEASED 3/24/78

B-118622

March 14, 1978

The Honorable Robert H. Michel
House of Representatives

Dear Mr. Michel:

On December 15, 1977, you requested that we review the effect of the Presidential proclamation of November 11, 1977, which was designed to protect the domestic price support loan program for sugar, noting that it did not impose fees on imported refined sugar. As you know, on January 20, 1978, a Presidential proclamation was issued which levied a fee of 3.22 cents per pound on imported refined sugar.

You requested that we address six topics posed in your letter. This report addresses each of those topics and our responses are numbered to correspond to the topics as numbered in your letter. In gathering this information, we interviewed officials of the Department of Agriculture, Bureau of the Census, and sugar refiners.

1. Bureau of the Census data shows that November imports totaled 19,615 short tons of refined sugar--about 3 percent of the calendar year 1977 total--and December imports were 469,096 short tons--72 percent of total calendar year 1977 refined sugar imports. The Bureau of the Census data is published by month, so it is not possible to say what portion of November refined sugar imports occurred after November 11. The following table shows the import amounts for 1977 and two prior years.

CED-78-85
(09714)

| | 1975 (short tons) | 1975 (percent) | 1976 (short tons) | 1976 (percent) | 1977 (short tons) | 1977 (percent) |
|---|---|---|---|---|---|---|
| Total | 147,675 | 100 | 213,725 | 100 | 655,711 | 100 |
| December | 24,020 | 16 | 1,299 | 1 | 469,096 | 72 |
| November | 60,636 | 41 | 25,624 | 12 | 19,615 | 3 |
| January | 1,162 | 1 | 3,682 | 2 | 1,798 | (a) |

(a) Less than 1 percent

An additional 26,146 short tons of refined sugar were imported in January 1978. The previous table provides comparable data for January 1975-77. As with the November 1977 data, it is not possible to say what portion of the January refined sugar imports occurred before January 21, the effective date of the import fee on refined sugar contained in the January 20 Presidential proclamation.

2. Refined sugar was exported to the United States by a variety of countries. The countries in the following table provided 92 percent of December 1977 sugar imports.

| Country | Amount (short tons) | Percent of calendar year 1977 refined sugar imports occurring in December |
|---|---|---|
| Phillipines | 137,089 | 84 |
| Brazil | 101,110 | 100 |
| Dominican Republic | 72,244 | 100 |
| Argentina | 36,400 | 88 |
| Canada | 15,227 | 17 |
| France | 12,792 | 44 |
| South Africa | 9,872 | 29 |
| El Salvador | 8,448 | 90 |
| Other Pacific Isls, NEC | 8,192 | 100 |
| Peru | 8,109 | 100 |
| Malawi | 7,980 | 100 |
| West Germany | 7,094 | 100 |
| Bolivia | 6,556 | 51 |
| Denmark | 2,000 | 69 |

In addition, the countries in the following table provided more than 99 percent of January 1978 sugar imports.

| Country | Amount (short tons) |
|---|---|
| Brazil | 18,380 |
| Canada | 5,022 |
| Guatemala | 2,670 |

It was not possible to obtain the source of the raw sugar.

3. The quoted average wholesale price of both cane and beet sugar have increased monthly since October 1977 in all markets for which the Department of Agriculture publishes data. It would therefore appear that the imported refined sugar has not caused prices to decline, although several processors told us that the imports had affected their sales volume and necessitated price reductions.

4. Based on the amount of refined sugar imported in December 1977 and using the 3.22 cents per pound fee for refined sugar established by the January 20, 1978, Presidential proclamation, the revenue not collected by the Treasury due to the absence of an import fee is estimated to be about $30.2 million (469,096 short tons or 938,192,000 pounds x 3.22 cents). Based on the amount of refined sugar imported in January 1978 and assuming all January imports occurred before the proclamation took effect, the revenue not collected by the Treasury in January due to the absence of an import fee is estimated to be about $1.7 million (52,291,525 pounds x 3.22 cents). These calculations assume that the same amount of refined sugar would have been imported had a fee been in effect.

5. It is not possible to determine the expected cost to the Treasury under the loan program at this time. There are several possibilities, each of which would result in a different cost.

(a) The total of refined and raw sugar imports for 1977 amounted to more than 1.5 million short tons, raw value, above the International Trade Commission import quota recommendation of 4.275 million short tons. If 1978 imports are greater than U.S. needs, domestically produced sugar could be displaced by imports. Through February 17, 1978, 671,000 tons, raw value, of sugar, valued at $180.8 million, were put under loan. If the sale of domestic sugar is displaced by imports, the sugar under loan could ultimately be forfeited. If the Commodity Credit

Corporation could not ultimately sell all of the sugar, the Treasury could possibly not recoup the $180.8 million currently loaned for sugar. The Agricultural Stabilization and Conservation Service expects to ultimately lend about $555 million on the 1977 sugar crop.

(b) The wholesale price of sugar has increased monthly since October, as previously mentioned. One possibility therefore is that, if prices continue strong, there will be no cost to the Treasury as all sugar under loan will be sold on the market and the loans repaid.

(c) In addition, if 1978 sugar imports are substantially below 1977 imports so that refiners' stockpiles are drawn down, the high level of 1977 imports discussed above will not displace domestically produced sugar. If prices increase under favorable conditions, processors will sell their sugar in the market and there will be no forfeiture of sugar and hence no cost to the Treasury on defaulted sugar.

6. Industries that use refined sugar as a processing ingredient include

--beverages,

--confectionery products,

--bakery and cereal products,

--dairy products, and

--processed foods, such as canned, bottled, and frozen foods.

Information is not available on who has benefitted from refined sugar imports, since Bureau of the Census data on imports do not indicate either the importer or the ultimate purchaser of the imported refined sugar.

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We have informally discussed the contents of this report with officials of the Department of Agriculture, who expressed agreement with the material.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Henry Eschwege

Henry Eschwege
Director

Enclosure

ROBERT H. MICHEL
[illegible] District, Illinois

MINORITY WHIP
APPROPRIATIONS COMMITTEE
Ranking Member
Labor, Health, Education, and Welfare
Subcommittee

Washington Office:
2112 R[illegible] Building
(202) [illegible]

**Congress of the United States**
**House of Representatives**
**Washington, D.C. 20515**

RALPH VINOVICH
Administrative Assistant

District Office:
[illegible] First National Bank Building
Peoria, Illinois [illegible]
[illegible]

Counties
[illegible] [illegible]
[illegible] [illegible]
Cass [illegible]
[illegible] Stark
Tazewell

December 15, 1977

Mr. Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Staats:

On November 11, 1977, President Carter signed two Proclamations designed to protect the domestic price support loan program for sugar contained in the Food and Agriculture Act of 1977. These Proclamations imposed higher duties and fees on raw sugar imported into the United States.

In the past few weeks a disturbing circumstance has placed this price support program in jeopardy. A combination of administrative error and Administration delay appears to be thwarting the price support program of the Congress.

The President's Proclamation of increased fees failed to impose fees on sugar refined abroad and imported into the United States as finished, "white" sugar. It has recently come to light that large quantities of this sugar are being imported at prices well below both current market prices and price support loan levels mandated by law.

To date, the Administration has failed to correct this "oversight" in the fee Proclamation (see enclosed newspaper articles). I would appreciate your assistance in determining the effects of this lack of action by the Administration.

Specifically, I would like to know:

1. How much refined sugar has entered the United States since the date of the President's Proclamation, and how this figure compares with previous import levels of refined sugar;

2. What the source of the refined sugar is, and if possible the source of the raw sugar which was processed for import;

3. The expected effect of domestic sugar prices of these imports, both in the next two months and the next year;

4. The loss of the U.S. Treasury from import fees not collected on this sugar;

5. The expected cost to the Treasury in loans made to U.S. sugar processors under the 1977-crop sugar loan program because of depressed U.S. raw sugar prices; and

6. What U.S. industries have benefitted, and by how much, by the availability of large supplies of sugar unaffected by import fees.

I would appreciate your early attention to this request since it seems to me that this situation could have a serious, immediate and detrimental effect on the sugar price support program.

Sincerely,

Robert H. Michel
Member of Congress

RHM:rvv

# Carter Proclamation On Sugar Tariff Turns Faces Red

## Program, Aimed to Protect Domestic Growers, Has Embarrassing Loophole

By KAREN ELLIOTT HOUSE
*Staff Reporter of* THE WALL STREET JOURNAL

WASHINGTON—President Carter's proclamation imposing tariff increases on foreign sugar is causing a lot of administration faces to turn beetred.

The reason: The document he signed doesn't do what it's supposed to do.

Officials have discovered a gaping hole in the President's new program to protect domestic sugar growers by keeping cheap imported sugar out of the U.S. Unless the legal loophole is plugged, as much as two million tons of unwanted foreign sugar could flood into this country, driving down sugar prices and forcing the government to pay up to $540 million to U.S. sugar growers this year.

"It looks like a bad bust," says James Agnew, an Agriculture Department sugar expert who helped design the program.

"We're studying ways to close the loophole," says Lynn Daft, the White House staff adviser on agriculture, "but I'm not very happy and the President won't be either when he finds out."

This latest foul-up is especially embarrassing because it is the second time the White House has flubbed efforts to help financially ailing sugar growers. The President announced a program to subsidize growers' incomes last spring only to have it declared illegal a few months later. That program was scrapped.

But it won't be so easy to repair this mistake. Indeed, no one is yet certain how to close the loophole. Lawyers for the departments of State, Agriculture, and Justice, as well as attorneys in the Office of the Special Trade Representative, are all working overtime to try to figure out what to do.

"I'm confident the ingenuity of the American bureaucratic mind can come up with something," says one official.

Adds Mr. Daft, "We'll close the loophole. I just want to make sure we do it without causing new problems."

Officials are trying to find some way to patch things up short of asking the President to amend his proclamation. Because the tariff will be collected by the U.S. Customs Office, officials hope they can correct the problem by a directive to customs officials. But, if that doesn't work, Mr. Carter may have to sign another proclamation amending his earlier proclamation. "That won't please him," Mr. Daft said.

No one will publicly say who is to blame, but officials privately accuse the Agriculture Department of a colossal goof. "Agriculture should have caught it, no question," says one critic.

The President signed two proclamations. One, drafted by the Special Trade Representative's Office, imposed a duty of 2.81 cents a pound on imported sugar. The other, drafted by Agriculture Department officials, imposed an additional 3.3-cent-a-pound fee on imports. It is the later proclamation that contains the error.

Under the proclamation, imported raw sugar that costs 10 cents a pound or more would be exempt from the 3.3-cent fee. That's because officials assumed that the 2.81-cent duty, plus the cost of transportation, would be sufficient to raise the price of such sugar to 13.5 cents a pound, the price the administration is trying to achieve for raw sugar through its program. Refining that sugar would add another 3.5 cents to four cents a pound to its cost to a processor such as Coca-Cola.

The loophold is that the proclamation doesn't distinguish between raw and refined sugar. So refined sugar also will be exempt from the 3.3-cent fee. This means that refined sugar that costs 10 cents a pound would increase to about 13.5 cents with the import duty and transportation cost. But because it wouldn't have to incur the cost increases of refining, it would cost 3.5 to four cents a pound less than domestic sugar or imported raw sugar that is refined here.

Because current quota limits will allow another two million tons of refined sugar to reach the U.S. without the added tariff, replacing a like amount of domestic sugar the government would have to buy for 13.5 cents a pound, the slip up could prove very expensive.

So to keep it short and sweet, the government is going to have to find a way to refine the sugar tariff program.

THE WALL STREET JOURNAL 33
Thursday, Nov. 17, 1977

THE JOURNAL OF COMMERCE, Monday, December 5, 1977

# USDA Officials Eying Options To Close Sugar Loopholes

Commodity News Service

WASHINGTON — U.S. Department of Agriculture officials are eyeing three possible solutions to one of the recently-discovered loopholes in the administration's Nov. 12 proclamation on new import fees on imported sugar, CNS has learned.

The chief loophole being studied exempts refined sugar from the import fee. President Jimmy Carter's import fee proclamation called for a zero to 3.3 cents-a-pound import fee, in addition to a 2.81 cent tariff. But it did not define separate fees for raw and refined sugar.

Robert Stansberry, who heads USDA's Procurement and Sales Division, told CNS the options top USDA officials are studying as a means of closing the refined sugar gap include charging a flat import fee instead of imposing a variable fee. Mr. Stansberry said he prefers this method over the current variable fee, and said an example would be to charge a flat 50 per cent of value of cargo fee, which is allowed under current law.

Two other options, according to Mr. Stansberry, are imposing a 100,000 short-ton quota on refined sugar imports or adding the refiners' margin to the current import fee scale and then figuring the import fee from that starting point.

Under current import fee calculations, sugar valued at between 6 and 6.67 cents per pound is subject to a 50 per cent ad valorum import fee. However, sugar valued at more than 6.67 cents per pound is subject to a different scale. The import fee of the higher priced sugar is calculated on a 3.32 cents per pound base. For example, if sugar is valued at 8 cents per pound, that amount exceeds the 6.67 cents value by 1.33 cents. The 1.33 cents figure is then subtracted from the 3.32 cents base to arrive at a 1.99 cents import fee.

Deputy director of the USDA Procurement and Sales Division, James Agnew, said while imports of refined sugar now account for only about 2 percent of all U.S. sugar imports, the mere existence of the refined sugar loophole could create a problem, especially if refined sugar imports were increased as a means of circumventing the tariff.

The other loophole, which Mr. Agnew said has not yet commanded much attention at USDA, due to concentration on the refined sugar gap, involves products containing sugar. Mr. Agnew explained that products such as jellies and donut fillings containing large amounts of sugar are not covered under the proclamation's tariff scheme. Mr. Agnew said companies could use the second gap as another means of circumventing the law.

The circumventing could be accomplished, theoretically, by firms simply buying sugar outside the U.S. where it is not subject to import fees, manufacturing highly sugar-based products in a foreign country and shipping the products back into the U.S. Mr. Agnew speculated that the U.S. International Trade Commission (USITC) might be asked to look into this loophole after it investigates the gap on refined sugar.

The USITC is scheduled to look into the refined sugar gap in a series of hearings across the country, beginning Jan. 1-4 in New Orleans.