

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION ¹

[Date approved: July 23, 2001]²

Bill No.: S. 753; 107th Congress

Introduced by: Mr. BREAU (and others)

Similar and/or related³ bills: None.

Summary of the bill:⁴

The bill would amend the Harmonized Tariff Schedule of the United States (HTS)⁵ to prevent circumvention of the sugar tariff-rate quotas (TRQs); specifically, it would add HTS subheading 1702.90.40 (currently not within a TRQ) to the list of subheadings covered by the TRQ for refined sugar under additional U.S. note 5(a)(i) of chapter 17 and would make conforming changes.

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

Through: n/a.

Retroactive effect: None.

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

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

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

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

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

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

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ⁶
United States Beet Sugar Association	Washington, DC	April 27, 2001	Y
United States Cane Sugar Refiners' Association	Washington, DC	April 27, 2001	N

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

If “Yes,” provide location of this facility if different from above (city/state):

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

The imported product	
Description and uses	Countries of origin
<p>Products imported under HTS subheading 1702.90.40 include sugar syrups derived from sugarcane or sugar beets that contain greater than 6 percent soluble non-sugar solids. These syrups contain sugar along with many impurities. Before 1997, most of the imports under this tariff subheading were essentially thick syrups (called “dirty syrups”) that resulted from the squeezing of the sugar cane, rather than molasses based syrups that result from the extraction of sugar (such molasses is classifiable in HS heading 1703). These “dirty syrups” were simply cane sugar juice, squeezed from raw cane sugar, from which some of the water had been removed. The “dirty syrups” are still imported under subheading 1702.90.40 and are often used as distillation mediums for growing yeast and as specialty table syrups.</p> <p>In 1997, the mix of imported goods under subheading 1702.90.40 changed. Along with imports of the “dirty syrups,” a new product began to be imported from Canada.</p>	<p>Brazil, Colombia, South Africa, Argentina, Australia, and Belize</p> <p>The targeted sugar syrup mixture is processed in and exported from Canada, but is not considered to be of Canadian origin. The raw sugar in the mixture is exported to Canada from other countries, and processing the raw sugar into sugar syrup does not involve a change of tariff chapter for the non-Canadian or non-NAFTA-origin inputs. Thus, according to Customs (see 19 C.F.R. 102.20) and to rules established under NAFTA (see general note 12(t) of the HTS), the country of origin of the sugar syrup is the country of origin of the raw sugar.</p>

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

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

The imported product	
Description and uses	Countries of origin
<p>The imported product is raw cane sugar mixed with molasses (which is itself extracted from raw cane sugar) and water. The raw sugar-molasses-water mixture allows the product to be classified in subheading 1702.90.40, and it is also the reported target of the present legislation (see appendix C).</p> <p>The raw sugar is imported into Canada from a third country source. The sugar is then mixed with molasses and water by a company in Canada. The mixture is heated so as to dissolve the raw sugar, forming a homogeneous sugar syrup. The mixture is shipped to the United States under HTS subheading 1702.90.40. Detroit, Michigan is the port of entry for the sugar syrup produced in Canada. Once the syrup is imported, a company based in Taylor, Michigan extracts the molasses from the mixture, leaving behind liquid sucrose which competes with domestically produced refined sugar for use in products such as cereal, ice cream, and candy. The remaining molasses is then either sold for use as animal feed or returned to Canada, where sugar and water are once again added to begin the process again. It is possible that other such mixtures and operations could be developed in the future for purposes of post-importation sugar extraction.</p>	

History of dispute over imports from Canada under subheading 1702.90.40
<p>In May 1995, U.S. Customs classified the raw sugar-molasses-water mixture under HTS subheading 1702.90.40. The Michigan-based company began operations in mid-1997. In January 1998, the United States Beet Sugar Association (USBSA) filed a petition with Customs, requesting that the sugar syrup be reclassified under 1702.90.20, which is subject to the refined sugar TRQ. In June 1999, U.S. Customs reclassified the syrup under the TRQ, to be effective on November 8, 1999. The reclassification made the sugar syrup dutiable at the prohibitive over-quota tariff rate for the company. Subsequent to the reclassification, the Michigan-based company filed suit against the United States and the USBSA in the United States Court of International Trade (CIT). In October 1999, the CIT overruled the reclassification by Customs and held that the initial classification under HTS 1702.90.40 was appropriate. The USBSA appealed the ruling by the CIT to the U.S. Court of Appeals for the Federal Circuit. Oral argument has been held, but a decision had not been issued on the appeal as of the date of preparation of this report.</p>

– EFFECT ON CUSTOMS REVENUE –

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

The U.S. TRQ for refined sugar is set forth in additional U.S. note 5(a) to chapter 17 and is included in Schedule XX listing U.S. concessions under the General Agreement on Tariffs and Trade. The TRQ’s trigger quantity (known as the in-quota quantity) is bound at a level of “not less than 22,000 metric tons” and is allocated on a fiscal-year basis by the United States Trade Representative (USTR). In general, the quantity allocated by the USTR exceeds the quantity appearing in the tariff note. For FY 2001 the trigger quantity was 51,254 metric tons, allocated as follows: Canada, 10,300 metric tons; Mexico, 2,954 metric tons; first-come, first served (FCFS), 20,344 metric tons; and FCFS specialty sugars, 17,656 metric tons. Under a side letter accompanying the North American Free Trade Agreement, Mexico is allowed to ship 116,000 metric tons under its special NAFTA TRQ. (See table on the following page for revenue effects of the bill.)

HTS number used in the bill: 1702.90.40 (new in-quota), 1702.90.45 (new over-quota) ⁸					
	2002	2003	2004	2005	2006
New in-quota rate of duty ⁹ (AVE) ¹⁰	0%	0%	0%	0%	0%
General over-quota rate of duty ¹¹ (AVE) ^{12 13}	163%	163%	163%	163%	163%
Estimated value <i>dutiable</i> in-quota imports ⁹	0	0	0	0	0
Estimated value <i>dutiable</i> over-quota imports ¹⁴	0	0	0	0	0
Customs revenue loss ¹⁵	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000

⁸ The HTS numbers are as set forth in the bill. However, as drafted, the bill's new HTS subheadings would not provide fully for the intended changes described therein or provide a subheading for non-quota imports (such as the "dirty syrups"). See recommendation in the next table and see technical comments for suggested changes.

⁹ We state that the effective AVE is zero because we believe that no imports would effectively be possible under the new provision during 2002 (because no licenses for entry of products covered by the refined sugar quota would have been issued), and that few if any imports after 2002 would enter under this provision because the TRQ trigger quantity and the Canadian allocation would likely not be adequate to permit entry. See appendix B for column 1-special and column 2 duty rates.

¹⁰ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹¹ See appendix B for column 1-special and column 2 duty rates.

¹² AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹³ The special safeguard tariff that generally applies to over-quota imports is omitted from mention in the bill. The special safeguard effectively raises the tariff on over-quota imports. The over-quota tariff rate plus the special safeguard tariff is estimated to be 195 percent AVE. See technical comments for discussion.

¹⁴ If the product is brought within the TRQ, it is believed that no imports of the sugar syrup would enter because, given current world prices, the over-quota tariff rate is economically prohibitive.

¹⁵ Based upon estimates of duties collected on recent imports of the goods that would be covered by the TRQ, which would likely be lost as revenue if these imports are excluded from entry.

HTS number recommended by the Commission: 1701.90.41 and 1702.90.42 (in-quota), 1702.90.45 (over-quota), and 1702.90.50 (non-quota)¹⁶					
	2002	2003	2004	2005	2006
General in-quota duty rate ¹⁷ (AVE) ¹⁸	0%	0%	0%	0%	0%
General over-quota duty rate ¹⁹ (AVE) ²⁰ ₂₁	163%	163%	163%	163%	163%
General non-quota duty rate ²² (AVE) ²³ ₂₄	1.7%	1.7%	1.7%	1.7%	1.7%
Estimated value <i>dutiable</i> in-TRQ and over-TRQ imports ²⁵	0	0	0	0	0
Estimated value <i>dutiable</i> non-quota imports	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000
Customs revenue loss ²⁶	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000

¹⁶ If a different HTS number is recommended, see technical comments.

¹⁷ The general rate of duty stated in the bill is the same as the general duty rate for subheading 1701.99.05 and 1701.99.10. See appendix B for column 1-special and column 2 duty rates. However, as stated earlier, we expect no goods to be imported within the TRQ. See footnotes on prior page.

¹⁸ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹⁹ See appendix B for column 1-special and column 2 duty rates.

²⁰ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

²¹ The special safeguard tariff that generally applies to over-quota imports is omitted from mention in the bill. The special safeguard effectively raises the tariff on over-quota imports. The over-quota tariff rate plus the special safeguard tariff is estimated to be 195 percent AVE. See technical comments for discussion.

²² These rates pertain to traditional imports under subheading 1702.90.40. See appendix B for column 1-special and column 2 duty rates.

²³ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

²⁴ See footnotes for over-quota general rate.

²⁵ If the product is brought within the refined sugar TRQ, it is believed that no imports of the sugar syrup can be entered because, given current world prices, the over-quota tariff rate is economically prohibitive.

²⁶ See footnotes on prior page. The Canadian goods imported for sugar extraction would likely be excluded from entry.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than</i> the proponents			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ²⁷
Mayer, Brown & Platt (legal counsel to Heartland By-products, Inc., Taylor, Michigan)	Washington D.C.	April 27, 2001	Y
U.S. Customs, National Import Specialist	New York, NY	April 27, 2001	N

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]*

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

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

²⁷ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

– TECHNICAL COMMENTS –

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

Recommended changes to the nomenclature in the bill: See below.

Recommended changes to any CAS numbers in the bill (if given): None.

Recommended changes to any Color Index names in the bill (if given): None.

*Basis for recommended changes to the HTS number used in the bill:*²⁸

The bill as drafted presents several problems and internal inconsistencies. Most importantly (from the perspective of the structure of the HTS), the proposed tariff provisions would not allow for the administration by Customs of a TRQ that encompasses an end use provision (namely, the bill's inclusion in the TRQ only of products from which sugars for human consumption are extracted and its exclusion of molasses used as or in animal feed and products for rum production from the scope of the TRQ). Nor did the bill present a residual category outside the TRQ for the products traditionally classified in existing HTS subheading 1702.90.40 prior to 1997 and still entitled to duty-free entry (such as the "dirty syrups"). Reusing the existing HTS number, 1702.90.40, for a different grouping of products accorded different tariff treatment would also present serious confusion and would disrupt the continuity of trade data. Last, the HTS normally includes before the in-quota subheading a provision for goods described in general note 15 to the schedule (government importations, etc.), but the bill did not do so.

We suggest that section 1(a)(1)(A) should be amended by striking from line two of that subdivision "1702.90.40," and by inserting in lieu thereof "1702.90.42," to reflect the nomenclature restructuring we suggest below. We see no reason to include section 1(a)(2) given that the new tariff provisions necessarily must state the rates of duty applicable to the products, and that the revised provisions would provide separately for the types of products that might be imported for sugar extraction (including the so-called "stuffed molasses"). Accordingly, subdivision (a)(3) could be redesignated as (2) or conceivably even dropped, given that these products would fall in new subheading 1702.90.50 proposed below. To avoid the problems mentioned in the first paragraph of this section, a suggested alternative structure is set forth below. We would not label subsection 1(b) as "conforming amendments" because the new duty and quota status being accorded would clearly be set forth in the HTS provisions themselves.

(b) HTS MODIFICATIONS.--Chapter 17 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 1702.90.40 and by inserting in numerical sequence the following new provisions, with the new superior text at the same level of indentation as the article description of subheading 1702.90.35:

²⁸ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee's consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

1702.90.41	“Other, [suitable][imported] for the extraction of sugar (but not including products for consumption by animals other than humans and products for use in the production of rum): Described in general note 15 to the tariff schedule and entered pursuant to its provisions	3.6606¢/kg less 0.020668¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 3.143854¢/kg	Free (A*, CA, E, IL, J, MX)	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1702.90.42	Described in additional United States note 5(a) to this chapter and entered pursuant to its provisions	3.6606¢/kg less 0.020668¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 3.143854¢/kg	Free (A*, CA, E, IL, J, MX)	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1702.90.45	Other ^[1/]	35.74¢/kg	24.716¢/kg less 0.035¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 15.973¢/kg (MX)	42.05¢/kg
1702.90.50	Other.	0.35¢/liter	Free (A*, CA, E, IL, J, MX)	1.8¢/liter”

[1/ See subheading 9904.17.08-9904.17.16]

The new superior text contains bracketed language indicating two possible choices: the broader one would be sugar products “suitable for the extraction of sugar” while the narrower would cover those actually “imported for the extraction of sugar.” The former might be interpreted as covering some products that were imported under existing subheading 1702.90.40 prior to 1995; it is impossible to name every type of product that could have been or could be covered by a tariff provision that is already ambiguous in scope. The latter, as well as the exclusion, would present administrative burdens for Customs (verification of the use of the goods within 3 years of the date of entry) and compliance problems for importers because it is drafted as a “use” provision—language that may be necessary to accomplish the bill’s intent. The scope of proposed 1702.90.50 is meant to be the products traditionally imported under existing 1702.90.40, such as the “dirty syrups” and the products excluded from the TRQ. Also, as the suggested tariff structure above indicates in bracketed language, a footnote ^{1/} would not be enacted by the bill but in the printed HTS would likely need to be added to the new over-quota tariff line,

1702.90.45, to bring this provision under the scope of the special safeguards set forth in subchapter IV of chapter 99 of the HTS. A copy of the relevant page from the HTS is attached in Appendix B. The provisions creating these safeguards were proclaimed by the President pursuant to the Uruguay Round Agreements Act and, accordingly, it is suggested that a proclamation would be needed to make conforming changes in subchapter IV of chapter 99 to refer to new 1702.90.45. The bill could be amended to mandate such a proclaimed amendment. Because it should properly be proclaimed rather than enacted, in order to give the same flexibility in determining the scope of the special safeguards as now exists for other TRQs, we do not suggest language for those changes in this report.

Other technical comments:

As drafted, the bill does not provide for the continuation of previously proclaimed staged duty reductions, particularly those for NAFTA-eligible goods of Mexico under the terms of general note 12. Nor does it provide continued staging of the general rate for former subheading 1702.90.40 (now 1702.90.50). These purposes could be accomplished by adding a provision stating that “The general and special duty rates for subheading 1702.90.50 shall be accorded the same staged reductions previously proclaimed for subheading 1702.90.40.”

This bill is aimed at precluding the importation of sugar syrups currently entered under HTS subheading 1702.90.40, from which refined sugar can ultimately be extracted for human consumption; however, it also intends to restrict imports of any other product that may in the future be developed for sugar extraction purposes. As drafted, the wording of section 1(a)(2) of the bill has the potential to cover products falling in virtually every tariff rate line in chapter 17, apart from those now covered by the refined sugar TRQ. Considering technological advances, companies could slightly change their production process or product composition and import products destined for post-entry sugar extraction under other tariff lines. The language we suggest above would not accomplish the result dictated by section 1(a)(2), because we do not know the nature of such future products. We note that the HTS general legal notes and rules of interpretation require that each article, other than exempt goods of general note 18, be classified and dutied under the appropriate tariff category based on its physical or other characteristics at the time of importation. It would be contrary to all existing tariff practice to require the Secretary of the Treasury to watch for a product that may be designed for circumvention purposes and then, despite its tariff classification, accord it the duty treatment required for goods imported under subheadings 1701.99.10 or 1701.99.50. Such a practice would likewise present serious problems under the GATT. It is suggested that future legislation could be drafted to address such situations, or in the alternative this bill could include proclamation authority (and perhaps compensation authority) so that the President could deal with such future products. Such a provision should replace the current text of subdivision (a)(2) of section 1 of the bill as drafted.

Last, it is suggested that, for administrative simplification, the bill be made effective on the first day of the month following the date that is fifteen days after the bill’s date of enactment, because provisions requiring monitoring such as these are best modified on the first day of a month. There would still be difficulties if that effective date falls during the TRQ year, and it is noted that any changes to the scope of the existing TRQ could prejudice importers now able to ship goods into the United States under it.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

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

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

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of September 30, 2001. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

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

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

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

Preferential free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by

Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

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

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX. Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 1/4/00

APPENDIX B

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

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

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

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

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

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

107TH CONGRESS
1ST SESSION

S. 753

To amend the Harmonized Tariff Schedule of the United States to prevent circumvention of the sugar tariff-rate quotas.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2001

Mr. BREAUX (for himself, Mr. CRAIG, Mr. DORGAN, Mr. BURNS, Mr. CONRAD, Mr. ENZI, Ms. LANDRIEU, Mr. THOMAS, Mr. GRAHAM Mr. CRAPO, Mr. BAUCUS, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. INOUE, Mr. AKAKA, Mr. ALLARD, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Harmonized Tariff Schedule of the United States to prevent circumvention of the sugar tariff-rate quotas.

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

3 **SECTION 1. PREVENTION OF CIRCUMVENTION OF SUGAR**
4 **TARIFF-RATE QUOTAS.**

5 (a) ANTICIRCUMVENTION.—

6 (1) AMENDMENT TO ADDITIONAL UNITED
7 STATES NOTES.—Additional United States Note

1 5(a)(i) of chapter 17 of the Harmonized Tariff
2 Schedule of the United States is amended—

3 (A) in the first sentence, by striking “and
4 2106.90.44,” and inserting “1702.90.40, and
5 2106.90.44, and any other article (other than
6 an article classified under subheading 1701.11
7 or 1701.12) that is entered, or withdrawn from
8 warehouse for consumption, if the article is sub-
9 sequently used for the commercial extraction or
10 production of sugar for human consumption, or
11 the article is otherwise used in any manner that
12 circumvents any quota imposed pursuant to the
13 notes to this chapter,”; and

14 (B) in the second sentence, by striking
15 “and molasses” and inserting “, molasses, and
16 other articles,”.

17 (2) RATE OF DUTY.—The rate of duty in effect
18 under subheading 1701.99.10 or 1701.99.50 of the
19 Harmonized Tariff Schedule of the United States,
20 on the date of entry of articles described in the ap-
21 plicable subheading shall apply to any article which
22 the Secretary of the Treasury determines is circum-
23 venting the tariff-rate quota relating to articles de-
24 scribed in the applicable subheading.

1 (3) ANIMAL FEED AND RUM.—Notwithstanding
 2 any other provision of law, no tariff-rate quota may
 3 be imposed under Additional United States Note
 4 5(a)(i) of chapter 17 of the Harmonized Tariff
 5 Schedule, on molasses that is used for animal con-
 6 sumption or for the production of rum in the United
 7 States.

8 (b) CONFORMING AMENDMENT.—Chapter 17 of the
 9 Harmonized Tariff Schedule of the United States is
 10 amended by striking subheading 1702.90.40 and inserting
 11 in numerical sequence the following new subheadings:

“	1702.90.40	Described in additional United States note 5 to this chapter and entered pursuant to its provisions	3.6606¢/kg less 0.020668¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 3.143854¢/kg	Free (A*, CA, E*, IL, J, MX)	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg	”.
	1702.90.45	Other	35.74¢/kg	24.716¢/kg less 0.35¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 15.973¢/kg (MX)	42.05¢/kg	

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section apply to goods entered, or withdrawn from
 14 warehouse for consumption, on or after the 15th day after
 15 the date of enactment of this Act.

