for determinating negligible impact is based on 10 percent of PBR with other factors considered when appropriate. Some suggestions have been made including: the determination be based on recovery rate for the stock involved; some other percentage of PBR be used since PBR already contains a recovery factor; or the criteria be related to the zero mortality rate goal. In addition, NMFS invites comments on how cumulative impact of a number of different fisheries should affect permit issuance. This is not an issue with the existing permits, but it may be a consideration in the future.

A couple of issues have arisen since the first permits were issued, and NMFS invites comment on how they should be addressed. First, there is an issue as to whether the permits should apply to takings that do not involve serious injuries and mortalities. It is not absolutely clear whether Congress intended section 101(a)(5)(E) to apply to all types of takes. The use of the term ''taking'' in the introductory portion of the section does not appear to be limited to serious injuries and mortalities, but the criteria for issuance of a permit focus only on the impact of serious injuries and mortalities. There is a question as whether permits should cover both types of taking. In addition, to date, the agency has not considered issuing permits solely for takings that do not involve serious injuries or mortalities. NMFS invites comments on whether it should issue permits to cover such takings and, if so, what criteria should be used in making determinations concerning the issuance of such permits.

Second, NMFS request comments on whether it should or can issue permits covering less serious types of taking when permits cannot be issued to fisheries for takings involving serious injury or mortalities.

Issuance of Permits

Section 105(a)(5)(E) permits are hereby issued to all vessel owners registered in fisheries currently holding such permits. The permits will be effective on January 1, 1999, and will expire on June 30, 1999.

Permits may be suspended or revoked if the level of taking specified in the Incidental Take Statement prepared under section 7 of the ESA for each stock for which an incidental take permit is issued is exceeded.

Dated: December 23, 1998.

P. Michael Payne,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–34451 Filed 12–29–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Notice of Round Table Discussion on Proposed Reform of Patent Law and Operational Authority of the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of meeting.

SUMMARY: The Patent and Trademark Office (PTO) announces a one-day, round table discussion on legislative proposals to reform patent law and the operational authority of the PTO. There will be approximately 10 to 20 round table participants. The participants may include Congressional representatives, Administration officials, and PTO customers invited by the PTO in consultation with groups representing large and small entities and independent inventors. Subject to space limitations, observers are invited to attend and, if time permits, make comments.

DATES: The round table discussion will be held on Friday, January 22, 1999, from 9:00 a.m. until 5:00 p.m. Individuals who would like to attend as observers must register by telephone between 12 noon Eastern time on January 14, 1999, and 12 noon January 20, 1999.

ADDRESSES: The round table discussion will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. Individuals who would like to attend must register their name with Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305–9300, or by facsimile transmission marked to his attention at (703) 305–8885.

FOR FURTHER INFORMATION CONTACT: Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305–9300, or by facsimile transmission marked to his attention at (703) 305–8885.

SUPPLEMENTARY INFORMATION:

Background

The U.S. patent system plays a critical role in our dynamic economy. Inventors rely on a strong patent system to protect their creativity and investment as they bring their new technology and products to the marketplace. Inventors want their patent applications examined and patents issued and protected in the most efficient manner possible. While all PTO customers and other interested parties agree with those goals, they disagree as to what, if any, reforms are necessary to achieve those goals.

Efforts intended to reform and improve the U.S. patent system have intensified over the last two Congresses. However, legislation was not enacted because of disagreement over the specific proposals to reform patent law and the operational authority of the PTO.

Purpose of Round Table Discussion

This round table discussion is expected to begin a constructive dialogue among PTO customers and other interested parties on the desirability and the proper nature and scope of the various proposed legislative reforms to U.S. patent law and to the operational authority of the PTO. The PTO does not intend to use the group to arrive at any consensus. Accordingly, the PTO will host the round table discussion both to bring insights and experiences of diverse viewpoints to the agency and to find out where problems have been observed in the patent system before those problems harm the American economy. Attendees will be encouraged to supply the agency with general commentary, suggestions, and raw data.

Issues

Issues to be addressed by round table participants include, but are not limited to, the following:

1. Early publication of patent applications and provisional rights.
2. Reform of reexamination procedures.
3. Prior user rights.
4. Patent term restoration/extension provisions.
5. Recasting the PTO as a Government corporation and/or performance-based organization with improved operating and financial flexibilities.
6. Patent fee related issues.
7. Invention promotion fraud.

Registration of Public Observers

Because of space limitations, a limited number of public observers will be allowed to attend. Individuals who would like to attend must register their name with Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305–9300, or by facsimile transmission marked to his attention at (703) 305–8885. Requests to register as

observers will be granted on a first-come, first-served basis.

Dated: December 23, 1998.

Q. Todd Dickinson,

Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 98–34494 Filed 12–29–98; 8:45 am]

BILLING CODE 3510–16–M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar & Cocoa Exchange, Inc. Petition for Exemption From the Dual Trading Prohibition Set Forth in Section 4j(a) of the Commodity Exchange Act and Commission Regulation 155.5

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is granting the petition of the Coffee, Sugar & Cocoa Exchange, Inc. (''CSCE'' or ''Exchange'') for exemption from the prohibition against dual trading in its Cocoa futures contract.

DATES: This Order is effective December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Duane C. Andersen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st., N.W., Washington, DC 20581; telephone (202) 418–5490.

SUPPLEMENTARY INFORMATION: On October 19, 1993, the Coffee, Sugar & Cocoa Exchange, Inc., (''CSCE'' or ''Exchange'') submitted a Petition for Exemption from the Dual Trading Prohibition contained in Section 4j of the Commodity Exchange Act (''Act'') and Regulation 155.5 for then-affected contract markets, including its Sugar #11 and Coffee ''C'' futures contracts.[1] The Exchange submitted an amended petition of March 21, 1997.[2]

Following its review of the March 21, 1997 petition the Commission found that the Exchange met all applicable statutory and regulatory standards for an exemption from the dual trading prohibition for its Sugar #11 futures contract market, the only affected contract market at the Exchange at that time. The Commission subsequently granted CSCE an unconditional exemption for that contract market by Order dated July 8, 1997.[3]

Subsequent to the publication of the Order, the Cocoa futures contract became an affected contract market. Consequently, on February 3, 1998, CSCE updated its petition to request that the Cocoa futures contract market be granted an exemption from the dual trading petition.[4] Notice of availability of the CSCE's updated petition was published in the **Federal Register** on March 4, 1998.[5]

Upon consideration of CSCE's petition, as supplemented,[6] and other data and analysis, including, but not limited to:

- Exchange audit trail test results reconciling imputed trade execution times to underlying trade documentation and verifying data on window sizes;
- Actions taken in response to the Commission's November 1994 *Report on Adult Trail Status and Re-Test;*
- Commission trade practice investigations and compliance reviews conducted in conjunction with rule enforcement reviews or other investigatory or surveillance activities;
- Division of Trading and Markets Memoranda dated June 19, 1997, and December 4, 1998;

and upon review of each element of CSCE's trade monitoring system and of CSCE's trade monitoring as a whole, the Commission hereby finds that CSCE meets the standards for granting a dual trading exemption contained in Section 4j(a) of the Act as interpreted in Commission Regulation 155.5.[7]

Subject to CSCE's continuing ability to demonstrate that it meets applicable requirements, the Commission specifically finds with respect to the Cocoa futures contract market that CSCE maintains a trade monitoring system which is capable of detecting and deterring, and is used on a regular basis to detect and to deter, all types of violations attributable to dual trading and, to the full extent feasible, all other violations involving the making of trades and execution of customer orders, as required by Section 5a(b) of the Act and Commission Regulation 155.5. The Commission further finds that CSCS's trade monitoring system includes audit trail and recordkeeping systems that satisfy the Act and regulations.[8]

With respect to each required component of the trade monitoring

[1] Affected contract market'' means a contract market with an average daily volume equal to or in excess of 8,000 contracts for each of four quarters during the most recent volume year. Commission Regulation 155.5(a)99). See Section 4j(a)(4). Under Section 4j(a) of the Act and Regulation 155.5(b), the dual trading prohibition applies to each affected contract market. The Commission, therefore, must consider separately each such contract market.

[2] In its amended petition, the Exchange petitioned for dual trading exemptions for six contract markets: Coffee ''C'', Sugar #11 and Cocoa futures and futures option contracts.

[3] 62 FR 37563 (July 14, 1997).

[4] Under Regulation 155.5(c)(3), the effective date of a dual trading prohibition shall be no more than 30 calendar days after the current computation date for that contract market. The computation date for the Cocoa futures contract market was January 6, 1998. Thus, CSCE timely submitted its amended petition before February 5, 1998, the effective date of the dual trading prohibition in the newly affected contract market.

[5] 63 FR 10596 (March 4, 1998). The petition, as hereinafter discussed, includes the original 1993 petition, the 1997 amendment, and the 1998 update unless otherwise indicated.

[6] On December 22, 1997, the memberships of both the CSCE and the New York Cotton Exchange (''NYCE'') voted to merge and form the Board of Trade of the City of New York (''NYBT''). The merger was approved by the Commission on April 24, 1998, and initially closed on June 10, 1998. Data discussed herein generally focus on 1997, the period covered by the petition update, and precede the merger.

[7] The burden to provide that the exemption standards of the Act and Commission regulations are met rests exclusively on the contract market. The dual trading provisions set forth in Section 4j of the Act and the standards for trade monitoring systems provided in Section 5a(b) of the Act were enacted as part of the Futures Trading Practices Act of 1992 (''FTPA''). Pub. L. No. 102–546, 101, 106 Stat. 3590 (1992). The FTPA's legislative history makes clear that the burden to prove that the exemption standards are met rests upon the contract market. For instance, the 1992 House-Senate Conference Committee stated that ''a board of trade may satisfy the initial burden of demonstrating that each of its designated contract markets complies with trade monitoring system requirements of section 5a(b) of the Act, subject to requests for further information by the Commission by showing that it has maintained an ongoing record of compliance with those requirements.'' H.R. Conf. Rep. No. 102–978 at 53 (1992). The Conference Committee adopted the 1991 House Bill's (H.R. 707) dual trading provisions, with amendments relating to exemptions. *Id.* at 50. The 1991 Senate Bill (S. 207) similarly placed on the exchange the burden to demonstrate the ability of its systems to meet the standards and reiterated the view, previously expressed in the 1989 Senate Bill (S. 1729), that an exchange has the best access to its own records and therefore is in the best position to show that its systems are effective and satisfactory. S. Rep. No. 102–22 at 32 (1991); S. Rep. No. 101–191 at 39–40 (1989).

[8] Section 4j(a)(3) of the Act requires the Commission to exempt a contract market from the prohibition against dual trading unconditionally upon finding that the trade monitoring system in place at the contract market satisfies the requirements of Section 5a(b) with regard to violations attributable to dual trading at the contract market. If the trade monitoring system does not satisfy the requirements, Section 4j(a)(3) requires the Commission to deny the exemption or in the alternative to exempt a contract market from the prohibition against dual trading on stated conditions upon finding that there is a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing and that corrective actions are sufficient and appropriate to bring the contract market into compliance with the standards set forth in Section 5a(b). Regulation 155.5(b) prohibits floor brokers from dual trading in an affected contract market unless that contract market is exempted under Regulation 155.5(d).