SWEETENER USERS ASSOCIATION

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Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20508

RE: Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico, Vol. 82, No. 98, Federal Register May 23, 2017, pp. 23699-23700.

These written comments are submitted on behalf of the Sweetener Users Association (SUA) in response to the Office of the U.S. Trade Representative's (USTR) request for comments on "matters relevant to the modernization of [the North American Free Trade Agreement (NAFTA)] in order to inform the development of U.S. negotiating positions." SUA commends USTR for seeking public input on an extremely important matter of trade and foreign policy.

SUA's members are food and beverage companies that use sugar, high-fructose corn syrup (HFCS) and other caloric sweeteners in manufacturing their products. Trade associations representing these companies are also SUA members. We support expanding trade opportunities for U.S. companies in order to stimulate economic and employment growth through exports.

Sweetener trade has been a point of contention between the U.S. and Mexico, both before and after NAFTA was fully implemented in 2008. Although the U.S. sugar industry was given 14 years, commencing in 1994, to prepare for open trade, nevertheless the highly protectionist nature of U.S. sugar policy led to numerous conflicts, some of which we discuss below. One of our central points is that the rest of the U.S. agricultural and food sector, which is highly competitive internationally and relies significantly on access to export markets, should not be made to suffer market losses merely in order to placate the U.S. sugar lobby.

The Stakes for Export-Dependent Agriculture are High

The U.S. agricultural sector – including food manufacturers – is deeply concerned about the potential erosion of benefits under NAFTA for an obvious reason: Our farm and food sector export more products to the world than we import from the world. Agriculture consistently generates an overall trade surplus with the rest of the world, generating additional economic activity and employment here at home. The farm and food economy in the United States relies on open access to foreign markets in order to sell its products.

Whether measured by volume or value, U.S. agriculture relies on overseas markets to absorb about 20% of its output. However, for the major U.S. commodities – especially those grown in the heartland between the coasts – export dependence tends to be higher, in some cases much higher. According to USDA, the export share of total production for selected commodities during the 2016/17 marketing year is–

- Wheat, 45%;
- Corn, 15%;
- Rice, 51%;
- Soybeans, 48%;
- Cotton, 84%;
- Broilers, 17%;
- Beef, 11%; and
- Pork, 21%.[1]

With farm income in the midst of a multi-year decline,[2] neither producers nor their customers can easily afford to lose export markets, including those in Canada and Mexico.

NAFTA Has Been a Notable Success Story for U.S. Agriculture

The record of trade among the United States, Mexico and Canada since NAFTA entered into force is clear: American farmers, ranchers, agribusiness operators and food industry workers have expanded their exports to Canada and Mexico.

- According to the Foreign Agricultural Service, between 2005 and 2015, U.S. agricultural exports to **Canada** grew at an average pace of **7.7% per year**, while the growth rate of our agricultural exports to **Mexico** was **7.2% annually**.[3]
- In fiscal year (FY) 2016, the United States exported agricultural products worth **$20.338 billion to Canada and $17.656 billion to Mexico**. Of all the countries in the world, only China imported a greater value of U.S. agricultural goods than our two NAFTA partners.[4]

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[1] World Agricultural Outlook Board. World Agricultural Supply and Demand Estimates. May 10, 2017. https://www.usda.gov/oce/commodity/wasde/index.htm Accessed June 2, 2017.

[2] Economic Research Service. 2017 Fam Sector Income Forecast. https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/farm-sector-income-forecast/ Accessed June 2, 2017.

[3] Foreign Agricultural Service. Average Annual U.S. Ag Export Growth Rate, 2005-2015. https://www.fas.usda.gov/data/average-annual-us-ag-export-growth-rate-2005-2015 Accessed June 2, 2017.

[4] Economic Research Service. Outlook for U.S. Agricultural Trade. May 25, 2017. https://www.ers.usda.gov/webdocs/publications/83665/aes-99.pdf?v=42880 Accessed June 2, 2017.

Sweetener Trade Has Also Grown, Benefiting U.S. Farmers and Others

From the time that NAFTA approached full implementation for sweeteners, the value of two-way trade has been roughly in balance, perhaps surprisingly, given the many attacks by U.S. sugar companies on imports from Mexico. The economic consulting firm Agralytica reviewed the dollar value of sweetener trade during the 10 years FY 2007-2016. **In total, the value of U.S. exports to Mexico at $6.35 billion actually exceeded the value of imports from Mexico at $6.22 billion.** In the most recent 10 fiscal years, the United States sweetener sector had, on average, a trade surplus with Mexico, not a trade deficit.[5]

The trade flows are comprised of the following elements:

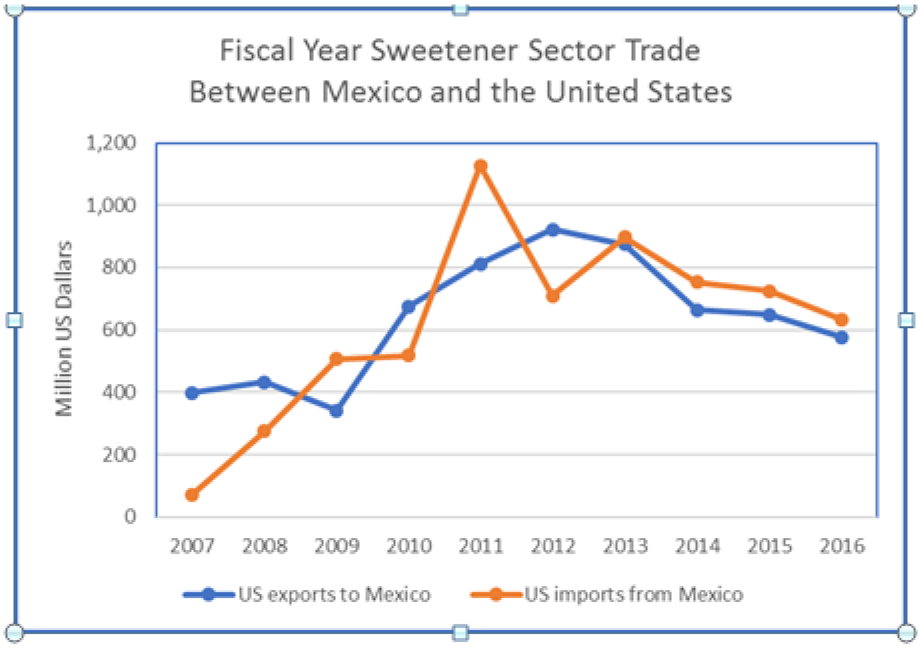
- **U.S. exports of high-fructose corn syrup and other corn sweeteners to Mexico.** Mexico is the largest export market for U.S. HFCS, and the growing demand for this product benefits U.S. corn farmers, corn processors and their employees.

- **U.S. exports of corn byproducts to Mexico.** These are byproducts of corn wet milling and starch. Again, the corn sector from farmers to factory workers derives a benefit from these exports, whether through higher corn prices to farmers or more efficient factory throughput for processors.

- **U.S. exports of sugar to Mexico.** Until recently, trade with Mexico under the Refined Sugar Re-Export Program involved the export of significant amounts of U.S.-produced sugar to Mexico, since that country's corresponding program required production in a NAFTA country. The re-export trade led to greater throughput and therefore better operating efficiency for U.S. cane sugar refiners, as well as sales opportunities for U.S. cane mills and beet sugar factories. Unfortunately, Mexico essentially terminated this trade during the dispute with the United States over sugar imports, so it is unlikely to be a significant source of exports unless it can be restored in the upcoming negotiations (see discussion of sugar-specific negotiating objectives below).

- **U.S. imports of sugar from Mexico.** Although the U.S. sugar lobby views Mexican sugar as a threat, the fact is that this sugar is needed because the U.S. does not produce enough sugar to meet domestic needs, and never has. We have several centuries of history as a net importer of sugar. Moreover, in at least some cases, U.S. producers benefit directly from the ability to source raw sugar from Mexico, inasmuch as the largest cane refiner in the United States (and the world) is owned by sugar growers in Florida and needs imported raw sugar to run its refineries efficiently.

[5] Earley T. US Mexico Sweetener Trade Balance. June 1, 2017.



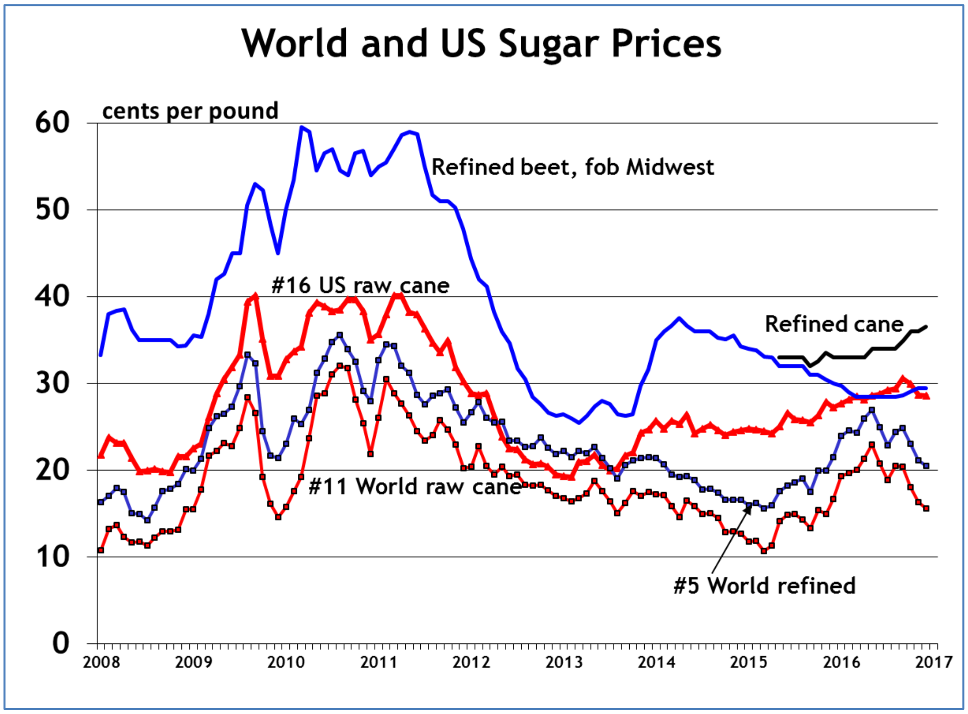
U.S. Sugar Policies Have Contributed to Market Problems

The U.S. sugar lobby tends to see the basic problem with NAFTA sugar trade as being Mexico's ability to sell sugar into our market free of quotas. Of course, the absence of trade restraints is the most fundamental concept underlying all free trade agreements, but the sugar lobby has always wanted to be a special case, arguing that normal principles of market economics that are valid everywhere else in the U.S. economy somehow cease to be relevant as soon as sugar comes under consideration.

In fact, however, the sugar lobby helped create powerful incentives for Mexico to ship maximum quantities of sugar to the U.S. market. **First, the sugar lobby continues to support a set of policies (i.e., price supports, import quotas, marketing allotments) that keep U.S. sugar prices well above world market prices.** Therefore, U.S. sugar policy consciously makes the United States a more attractive destination for Mexican exporters than the world market.

Second, the sugar lobby induced Congress to raise price supports just as NAFTA's sugar access provisions were being implemented. Higher price supports mean a higher guaranteed price in the U.S. market. Not surprisingly, Mexico took advantage of the opportunity.

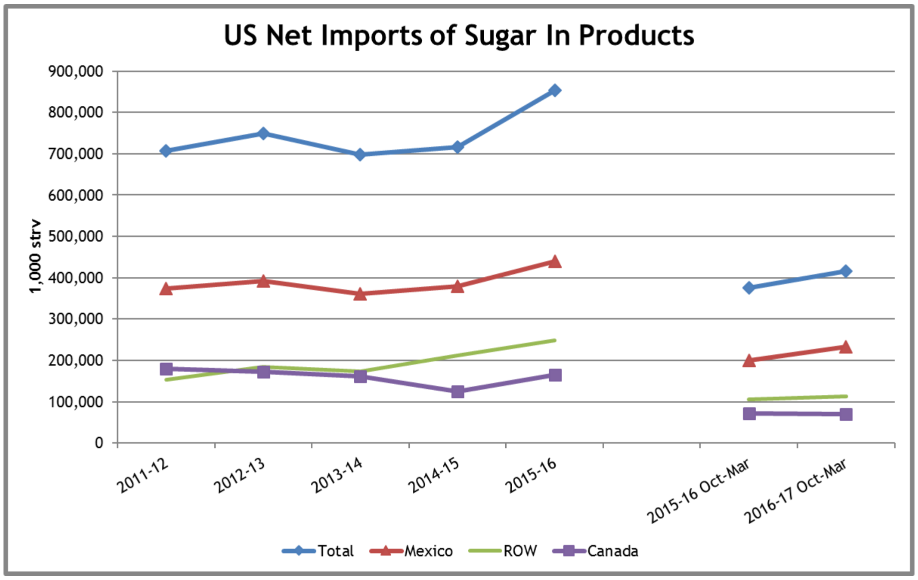
Third, U.S. sugar interests pressured the previous Administration to operate the sugar program in a decidedly unbalanced manner, chiefly by delaying any increase in the tariff rate quota (TRQ) for other non-NAFTA countries until markets spiked to irrational levels. Eventually, U.S. prices in this period (2009/10) were so high that approximately 200,000 short tons, raw value (STRV), of sugar was imported *and paid the normally prohibitive over-quota* *tariff*. Business transactions do not take place without an economic reason. Clearly, in this period, the U.S. government was forcing sugar prices so high that it was more profitable to pay the over-quota tariff than to source sugar domestically.



This absurd result eventually did lead to somewhat more rational policy decisions at USDA, but the policy of denying access to third countries continued to have an impact. Among the sugar lobby's other strategies was to convince Congress to enact restrictions that make it extremely difficult to increase the TRQ above the bare minimum quantity to which the United States is committed under the rules of the World Trade Organization (WTO). **The lack of competition from third countries also encourages maximum reliance on imports from Mexico.**

Another consequence of U.S. sugar policy is that it is encouraging a large increase in net imports of sugar-containing products (SCPs). While we continue to protect the sugar industry, all of the various multilateral and bilateral trade liberalization efforts in recent decades have gradually reduced or eliminated barriers to manufactured products such as foods and beverages. The United States was once a net exporter of sugar in SCPs, but as the Agralytica chart below indicates, this country has become a major net importer of these products.[6] Based on trade data through March, Agralytica projects that net imports of sugar in SCPs will exceed one million tons during the current fiscal year. The jobs involved in producing those SCPs could have been here, but are now abroad.

[6] Agralytica. SCP Trade Second Quarter 2016/17. May 11, 2017.



We acknowledge the decision of the U.S. International Trade Commission (USITC) that Mexican firms dumped sugar and benefited from subsidies. But from any rational viewpoint, the U.S. sugar lobby created much of the problem by its own conduct and the policies it pressured Congress and the previous Administration to adopt.

Overall Agricultural Negotiating Objectives Should Prioritize U.S. Farm Exports

The admonition, "first, do no harm," from the Hippocratic oath has become something of a cliché when advising governments on their policy strategies. Yet it is highly relevant here. The Administration, in negotiating changes to NAFTA, should clearly establish the objective that **no current access for U.S. agricultural products in Canada and Mexico should be sacrificed, whether consciously or as a foreseeable consequence of U.S. efforts to restrict access for Canadian or Mexican products.**

Similarly, **we see no reason for the United States to focus on restricting the market access of either Canadian or Mexican agricultural products.** If there are unfair practices on the part of either country, those should certainly be addressed, although we note that nothing in NAFTA prevents U.S. industries from utilizing the trade laws when imports are unfairly traded – as the sugar industry's complaint against Mexican sugar demonstrates. In any event, **the U.S. should not attempt to restrict market access for merely protectionist reasons.** Such a strategy would undoubtedly backfire on an export-reliant U.S. agricultural economy.

Sweetener Negotiating Objectives Should Expand, Not Restrict Trade

We believe there are positive opportunities to expand rather than restrict trade in sweeteners. Unfortunately, these opportunities must be evaluated in the light of highly negative modifications to the U.S.-Mexico suspension agreements, which were announced in principle on June 6, 2017.

The suspension agreements, from the beginning, have been detrimental to industrial users of sugar. As SUA has documented on numerous occasions, the agreements have restricted supplies of raw sugar in the U.S. market, artificially driving up raw sugar futures to levels previously associated with hurricanes, industrial explosions or other emergencies. The agreements have depressed cane refiners' margins, distorted trade flows and defied the express intent of Congress, which voted for minimum prices in the U.S. market that are far below the reference prices in the agreements.

Now, it appears that the new modifications will make bad agreements still worse. The modifications contain a second round of price support increases not authorized by Congress. They continue the flawed formula for determining Mexican access, which results in a deliberate shorting of the U.S. market.

We recognize that USTR will be negotiating, not the suspension agreements, but the market conditions that would be obtained under the terms of NAFTA itself. However, USTR can and must take into account the likelihood that the suspension agreements will persist for some time. In this context, we recommend the following objectives:

1. **Compensate for the injurious new suspension agreements with a separate tariff-rate quota to which reference prices do not apply.** Although we oppose new quotas generally, the terms of the recently announced modifications to the 2014 suspension agreements appear to be so onerous for industrial sugar users, such that some relief is urgently required. Therefore, we recommend the establishment of a permanent TRQ for Mexico of approximately 300,000 STRV, which would be exempt from reference prices in the suspension agreements. This TRQ should be in addition to the minimum TRQ for other WTO members, in order to achieve the goal of adequate supplies at reasonable prices for our domestic market.

2. **Restore re-export trade.** Mexico should again permit U.S. sugar to enter duty-free under the Refined Sugar Re-Export Program and Mexico's IMMEX program. This trade will benefit both nations.

3. **Provide additional access for Canada.** The negotiations under the Trans-Pacific Partnership demonstrated that modest additional amounts of sugar from Canada and other origins could easily be accommodated without damaging the U.S. sugar policy regime. At a minimum, the cumulative concessions U.S. negotiators made to Canada and other TPP countries should be provided to Canada under any new NAFTA agreement. In addition, however, the U.S. should eliminate the requirement that any sugar Canada ships to the United States must be produced from Canadian sugar beets. Like the U.S. itself,

Canada is a net importer of sugar, and this origin requirement hampers trade unnecessarily given that quantitative restrictions would remain. (We do not favor these quantitative restrictions and would welcome their removal, but we recognize that they were part of NAFTA from the beginning and are a consequence of the original choice to structure NAFTA as three bilateral arrangements rather than a single unified agreement.)

SUA appreciates the opportunity to provide these comments. In conclusion, we strongly urge USTR to take into account the needs and opportunities of the entire U.S. farm and food sector – including the vast majority of that sector that can export efficiently, but can also be harmed, directly or indirectly, by sugar protectionism.

Sincerely,

Richard Pasco
President