SWEETENER USERS ASSOCIATION

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February 2, 2016

The Honorable Michael Scuse
Under Secretary
Farm and Foreign Agricultural Services
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Dear Mr. Under Secretary:

In a letter sent December 14, 2015, the Sweetener Users Association (SUA) reviewed the then-current *World Agricultural Supply and Demand Estimates* (WASDE) and stated that an increase in the raw sugar tariff-rate quota (TRQ) was timely. Market information available today only strengthens the case for making additional supplies available to the marketplace.

Changes in the WASDE

Compared to the December WASDE, the report published in January –

- Decreased estimated total sugar production;
- Decreased estimated sugarcane production in both Louisiana and Texas, further limiting domestic supply availability to cane refiners in the Gulf and underlining the importance of imported raw sugar;
- Reduced raw imports for re-exports in recognition of Mexico's unfortunate decision to bar re-export refined sugar from its IMMEX program, thus signaling an additional reduction in U.S. cane refinery throughput; and
- Reduced overall U.S. supplies and trimmed the stocks-to-use (S/U) ratio to an uncomfortable 13.0%.

Subsequently, severe flooding in Florida's sugarcane area likely reduced that state's raw sugar production potential for this season.

Independent Views on the WASDE

In its January market update, the respected firm JSG Commodities wrote about the January WASDE: "We see several issues with today's report that reduce the level of imports, which may help explain unexpectedly high #16 values." In the firm's view, these issues include –

- The fact that domestic food use is forecast to rise only 0.2%, despite reports of further demand shifts away from high-fructose corn syrup toward sugar;
- An apparent failure to consider the impact of Mexico's IMMEX decision in tightening overall North American supplies; and
- The replacement of some raw sugar TRQ imports with direct-consumption imports from Mexico that bypass cane refineries.

Similarly, the consulting firm Agralytica states in its January report that additional imports "could come from shortfall reallocations, the Mexican formula, or changes in re-export license balances, but a TRQ increase will probably be required."

Inadequacy of Stocks Under the Suspension Agreements

The most compelling argument for a TRQ increase is that even if the WASDE numbers are absolutely on-target, the 13.5% S/U contemplated in the U.S.-Mexico suspension agreements is inappropriately low. SUA fully realizes that this number is memorialized in the agreements, but we reiterate that **nothing in the suspension agreements prevents – or could prevent – USDA from targeting a higher S/U ratio for its administration of the sugar program and its management of imports from TRQ-holding countries.**

USDA has not abandoned its traditional – and publicly-stated – goal of maintaining ending stocks at between 13.5-15.5% of use, with a 14.5% midpoint. As you know, SUA has long felt that the upper end of the range is more appropriate, and we note that independent cane refiners advocate a ratio still higher, because one of the unintended consequences of the suspension agreements is an undue reduction in the availability of imported raw cane sugar supplies to U.S. refiners. (In the same January report cited earlier, JSG Commodities opines that "the lot of the cane refiner in the U.S. has gone from bad to worse.")

At a minimum, USDA should announce a TRQ increase sufficient to raise 2015/16 ending stocks to 15.5% of use. SUA believes this increase is needed now, and we explain below that there is no legal obstacle whatever to such an action. Since Mexico's Export Limit could be increased based on the March WASDE, we recommend that a small portion of any TRQ increase be held back for a second tranche, to be released or modified depending on the final Export Limit.

Additional Considerations

In acting to prohibit IMMEX imports of U.S. sugar that benefited from a re-export credit, Mexico has not violated the North American Free Trade Agreement, but has arguably acted contrary to the spirit of that pact, and contrary to the spirit of bilateral compromise that underlies the suspension agreements. SUA believes it should be a diplomatic priority for USDA and other agencies to persuade Mexico to reverse its decision, because –

- Mexico's action effectively cripples a long-established component of U.S. sugar policy, the Refined Sugar Re-Export Program, and was taken unilaterally; and
- The action further harms U.S. cane refiners who are already disadvantaged by provisions of the suspension agreements.

From this perspective, a TRQ increase is an appropriate response to Mexico's change in IMMEX policy: It will demonstrate that the United States is also prepared to act unilaterally in a manner consistent with its international obligations, and also shows that the same concern for the domestic cane-refining sector that motivated the creation of re-export programs in the early 1980s continues to motivate USDA.

Another factor that, in our view, should be taken into account is the recent announcement by Hawaii's sole remaining sugar producer that it will cease production. The end of Hawaiian sugar production will not immediately affect the 2015/16 sugar balance sheet, but in future years it will further restrain the availability of domestic raw sugar to refiners, and mean additional harm to that sector. Therefore, an action now to strengthen the sector's capacity utilization – i.e., a TRQ increase – may serve to cushion the future blow to the industry.

Legal Authorities for a TRQ Increase

In our December 14 letter, SUA explained at length why USDA retains full authority to increase the TRQ, and needs no "emergency shortage" declaration to do so before April 1. We will not reiterate all the points made in that letter, but simply state in summary that when Congress enacted TRQ management provisions in the Food, Conservation, and Energy Act of 2008, the lawmakers –

- Did not amend, repeal or restrict USDA's authority to increase TRQs under the Harmonized Tariff Schedules of the United States (HTSUS), which permit such increases in order to attain adequate supplies "at reasonable prices";
- Required the TRQ to be set at its minimum level on October 1 of each year, but did not say that it must remain at that level; and

- Required a TRQ increase in the event of an emergency shortage, but did not prohibit an increase in the absence of such a shortage, even though they could easily have done so.

We fully realize that supporters of the sugar program have promoted an interpretation of the 2008 Act at variance with what we have stated. We would only refer you to the plain language of the law, which must govern.

Conclusion

The U.S.-Mexico suspension agreements have unintentionally tightened supplies of raw cane sugar and artificially increased domestic raw sugar prices above levels that are consistent with the U.S. sugar price support program. Both of these consequences have a negative impact on the cane refining sector, and in turn on their customers, the businesses that use sugar in making foods and beverages. Fortunately, USDA has the power to at least mitigate these harms by increasing the raw sugar TRQ. We urge you to do so as soon as possible.

Sincerely,

Perry Cerminara
Chairman