Suspension Agreements on Sugar Imports from Mexico

Summary

The June 2017 amendments to the December 2014 U.S.-Mexico sugar suspension agreements have made a bad situation worse for U.S. consumers and sugar-using industries. By restricting supplies of cane sugar and inflating prices far above the support prices that Congress legislated in the 2014 farm bill, the amendments have added a new layer of managed trade to a U.S. sugar industry that already receives virtually unparalleled government protection from market forces at the expense of U.S. consumers, food companies and the millions of Americans they employ.

Congress should recognize the negative impact that the suspension agreements have had on the American economy and the further damage that will be done with these new amendments. Congress should forego the suspension agreements altogether by fixing underlying U.S. sugar policies to ensure adequate supplies of sugar at a fair price so that American food manufacturers can keep workers employed, producing quality products at affordable prices. Congress should approach the 2018 farm bill debate with this goal.

How the December 2014 Suspension Agreements Harmed U.S. Consumers, Food Manufacturers and American Workers

The sugar provisions of the North American Free Trade Agreement (NAFTA) give Mexico access to the U.S. market, the same treatment as virtually all other products. However, in March 2014, the U.S. sugar industry petitioned the International Trade Commission (ITC) and the Department of Commerce to impose antidumping and countervailing duties on sugar imports from Mexico. The government found that sugar imported from Mexico was injuring the sugar industry and imposed preliminary countervailing duties on Mexican imports in August 2014 and antidumping duties in October 2014.

In December 2014, the United States and Mexico signed "suspension agreements" that suspended the antidumping and countervailing duty investigations of sugar imports from Mexico. As a result of decisions by the ITC and the Department of Commerce, the suspension agreements are now relatively entrenched in the U.S. sugar market structure. The suspension agreements have drawn criticism from U.S. sugar users and some refiners, while being defended by some other refiners and all sugar crop growers.

One of the main criticisms is that the suspension agreements directly subsidized the Mexican sugar industry by creating an unnecessarily high floor price for raw cane sugar imports from Mexico. Therefore, rather than punish the Mexican sugar industry for its dumping and government subsidies, the agreements actually rewarded it. While Mexican companies have benefited from higher prices established by the agreements, U.S. sugar prices have been artificially forced up – and U.S. cane refiners and their workers have been injured – by a designed shortage of raw cane sugar in the U.S. market. That shortage is directly tied to the suspension agreements, which unduly limit access to sugar that is essential to adequately supply our domestic market (Unfortunately, in part due to our own domestic program, U.S. sugar producers are only able to provide about 75% of domestic market needs).

How the June 2017 Amendments to the Suspension Agreements Made the Situation Worse

The December 2014 suspension agreements were contested in January 2015, and after lengthy behind-the-scenes negotiations, the Commerce Department announced the terms of renegotiated suspension agreements on June 30, 2017. These amended suspension agreements further raise floor prices for both raw and refined sugar and add new restrictions on sugar imports from Mexico.

The amendments place additional constraints on Mexico's sugar exports to the United States and prop up U.S. sugar prices even higher than in the original suspension agreements. High U.S. sugar prices, which are currently about double world price levels, hurt American consumers and food companies, who now face an estimated $3 billion in added annual costs.

The new suspension agreements also further reward the Mexican sugar industry by giving that industry the right of first refusal to supply all additional U.S. sugar import needs in each marketing year at the expense of import quota-holding countries. These agreements severely limit the ability of countries holding tariff-rate quotas (TRQs) to supply additional volumes of sugar required by the U.S. market beyond the World Trade Organization (WTO)-bound minimum import quota.

As re-negotiated and amended, the Mexico suspension agreements include the following provisions:

- All Mexican raw sugar imports must be delivered to the U.S. in ocean-going vessels.
- All Mexican raw sugar exported to the United States must be loaded in bulk and free-flowing (i.e., not in a container, tote, bag or otherwise packaged) into the hold of an ocean-going vessel.
- If any sugar leaves a Mexican mill in a container, tote, bag or similar package, it must be emptied from any such container into the hold of an ocean-going vessel for exportation, otherwise it will subject to the higher floor price of 28 cents per pound for refined sugar.
- Any exports of sugar from Mexico that are not transported in the hold of an ocean-going vessel will be considered to be refined sugar and thus subject to the higher 28 cents per pound minimum price.

- The Department of Commerce calculates a limit on sugar imports from Mexico based upon USDA's estimates of sugar needs for the fiscal year.
- Mexico's limit is to be equal to 100% of U.S. needs after accounting for U.S. production and imports from tariff-rate quota countries.
- Mexican imports are prevented from being concentrated during certain times of the year through a so-called "Export Limit Period."
- No more than 30% of U.S. needs calculated in each July and effective October 1 may be exported to the U.S. from October 1 through December 31.
- No more than 55% of U.S. needs calculated in each September and effective January 1 may be exported to the United States during the period from October 1 through March 31.
- "Refined sugar" is defined as sugar with a polarity/purity of 99.2 degrees or higher for the first 7 months of the marketing year (which is inconsistent with the *Harmonized Tariff Schedule of the United States* for identifying sugar as refined sugar when the sugar has a polarization of 99.5 degrees or above, and raw sugar as anything below 99.5 degrees).
- Imports of refined sugar are to account for no more than 30% of Mexico's sugar imports during any export limit period.
- The minimum prices, referred to as "reference prices," at which sugar from Mexico may enter the United States are:
  Refined sugar – 28 cents a pound, ex-mill Mexico.
  Other sugar – 23 cents a pound, ex-mill Mexico.
- First right of refusal on any additional imports needed in the U.S. market is granted to Mexico.

The suspension agreements are fundamentally flawed in limiting access to imported sugar that is essential to adequately supplying a U.S. market where domestic producers are only able to supply about 75 percent of domestic needs. The suspension agreements add new layers of restraints on trade by not only limiting the volume of available sugar in the domestic market, but also go further in unnecessarily raising the guaranteed floor price to both U.S. sugar producers and the Mexican sugar industry.

Even tighter controls on the total volume of sugar in U.S. market force sugar prices higher than domestic prices, which are already at least 80 percent higher than world market prices. The suspension agreements introduce a new feature establishing an ending stocks-to-use ratio of 13.5% that puts unnecessary constraints on supplies needed by U.S. food companies that rely on adequate supplies of sugar each month to maintain their production lines. The fact that U.S. sugar producers cannot grow enough sugar to supply the domestic market, and that Mexico is the only country that is not subject to a tariff-rate quota (TRQ) in supplying our market with muchneeded sugar, makes it all the important that Congress take action in the farm bill to adequately meet U.S. needs.

The new suspension agreements clearly increase government management of the U.S. sugar market (i.e., maximum polarity mandate of 99.2 polarity and new bulk shipping requirements for raw sugar imports, higher minimum floor prices for both raw and refined sugar, and more), reduce the supply certainty for U.S. food companies, and lower prospects for above minimum quota access for TRQ country holders.

It is certainly interesting that Mexico is provided first right of refusal for any additional sugar imports after they have been found to be violation of U.S. antidumping and countervailing duty laws. Given this determination, it's a big question why Mexico needs to be rewarded with this special treatment that could be used by Mexico to block entry of any future additional sugar from other countries into the U.S. market. The first right of refusal feature of the proposed suspension agreements appears to be designed to limit competition for sugar producers in both the U.S. and Mexico. This raises the broader question of why we need to implement a federal government policy to subsidize Mexican sugar producers as well as U.S. sugar producers through forcing higher costs onto American consumers and food companies.

Under the suspension agreements, Mexico receives an **"Export Limit"** that operates for most purposes like an import quota. All shipments of Mexican sugar into the United States must be accompanied by an export license granted by the Mexican government. These licenses are the result of Mexico parceling out the Export Limit among Mexican sugar industry participants. Total imports from Mexico cannot exceed the Export Limit, and if they do, the excess amounts are doubled and deducted from the amount that could otherwise be imported.

Access for Mexico is governed by a formula tied to the **U.S. Department of Agriculture's monthly *World Agricultural Supply and Demand Estimates*** (i.e., WASDE). The WASDE has always been a significant tool for implementing sugar policies like import quotas and marketing allotments, but the suspension agreements make it even more important.

Mexico's de facto import quota is provided in the agreement suspending the countervailing duty investigation. In the agreement suspending the antidumping investigation, Mexico also agreed to **minimum selling prices.** These minimum prices – called "Reference Prices" – are **28 cents per pound**, free-on-board (FOB) the Mexican plant, for Refined Sugar; and **23 cents per pound**, FOB plant, for Other Sugar. Since these are FOB prices, equating them to a U.S. delivered value requires making an estimate of transportation costs from the Mexican plant to the U.S. customer. This will of course vary somewhat by location in both the U.S. and Mexico, but at least 2 cents per pound will be added to this floor price.

The terms of the two suspension agreements taken together mean that Mexico cannot export more than 30% of its quota at a minimum price of 28 cents per pound, and the balance will be subject to a minimum price of 23 cents per pound.

The lowering of the polarization threshold in the definition of "refined sugar" to 99.2 degrees polarity from 99.5 in the new suspension agreements is designed to harm specific segments of the U.S. refining industry and limit domestic competition. The 99.5 degrees breakpoint for defining refined sugar is an international standard that is specifically written into U.S. law and has been used in the administration of U.S. TRQs since their inception.

A side-by-side comparison of the original suspension agreements and the new amendments can be found on page 4 of the USDA Economic Research Service's June 2017 *Sugar and Sweeteners Outlook*

Conclusion

The U.S.-Mexico suspension agreements have been devastating to U.S. consumers, food manufacturers and the Americans they employ. The newly enacted amendments will only make matters worse.

Congress has the opportunity to stand up for the U.S. economy by superseding the suspension agreements and fixing the U.S. sugar program. If not sooner, Congress should make sure the 2018 farm bill reforms the U.S. sugar program and allows sugar-using companies and their workers to keep making food products that consumers enjoy and can afford.