SWEETENER USERS ASSOCIATION

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Suspension Agreement
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VIA ACCESS ELECTRONIC FILING
The Honorable Wilbur R. Ross
Secretary
U.S. Department of Commerce
Attn: Enforcement & Compliance
14th Street & Constitution Avenue, NW
Washington, DC 20230

RE: Sugar from Mexico: Draft Amendment to the Agreement Suspending the Antidumping Duty Investigation

Dear Secretary Ross:

Following a decision by the Court of International Trade, the Department of Commerce is presently circulating to interested parties a set of amendments to the 2014 agreements suspending antidumping and countervailing duty investigations with respect to sugar imported from Mexico. A preliminary review of the draft amendments indicates that they are identical in substance to the 2017 amendments that the court ordered to be vacated, although there are a few technical changes that primarily reflect the timing of the present draft amendments.

The Sweetener Users Association (SUA) assumes that, as was the case for the 2017 amendments, there will be an opportunity for public comment on these drafts. SUA will participate in that comment process. As Commerce finalizes its draft amendments, however, we would like to urge that you not allow this opportunity for improvement in the amendments to pass.

Some features of the 2017 amendments were positive, to the extent that they encouraged better availability of Mexican sugar to coastal refineries. However, the increases in reference price for refined and other sugar have proven negative for sugar users, their employees and consumers.

Commerce provided no adequate explanation for the price increases at the time and they appear to serve no purpose other than to inflate the costs of sugar for customers. These unjustified price increases have several detrimental effects.

- The higher reference prices establish a higher price floor under the entire U.S. sugar market, given the large share of imports for which Mexico accounts and the difficulty of securing alternate supplies from other origins because of legal restrictions on imports. The higher floor price is readily apparent from a review of the performance of the #16 domestic raw cane sugar futures contract before and after the amendments.

- The reference prices contribute to an unnaturally wide spread between the #16 domestic futures and the #11 world raw sugar contract, thus encouraging a notable increase in over-quota imports from the world market, which can be profitably imported despite paying a tariff of just over 15 cents per pound that is intended to be prohibitive. Such over-quota imports totaled 91,000 short tons, raw value (STRV), in 2018/19, according to the U.S. Department of Agriculture.

- Relatedly, the higher reference prices encourage the substitution of imported sugar-containing products for U.S. sugar, again reflecting the abnormally wide spread between world and U.S. sugar prices. According to the consulting firm Agralytica, imports of sugar-containing products in 2018/19 were equivalent to 1.9 million STRV of sugar, and imports net of exports were equivalent to almost 1.1 million STRV of sugar. (Agralytica's most recent estimates are attached.)

- Again because of their tendency to increase the spread between U.S. and world sugar prices, the unnecessarily high reference prices harm U.S. competitiveness. As of Nov. 11, 2019, the March futures contract for domestic sugar was 27.50 cents per pound, while the March world sugar futures contract traded at 12.63 cents. This means that manufacturers of confectionery and similar products face an input cost for U.S. sugar that is close to twice that borne by their offshore competitors, even when transportation costs are added to the world price to equate it to a U.S. location.

- The reference prices fail to respect the policy structure for sugar price supports enacted by Congress in the 2018 farm bill. For example, USDA calculates a "forfeiture equivalent" price for raw cane and refined beet sugar, i.e., a prevailing market price at which U.S. processors would be indifferent to selling their sugar commercially or forfeiting it to the federal government at taxpayer expense. For 2019-23, this forfeiture equivalent price for raw cane sugar is 22.216 cents per pound. By contrast, the minimum export price, FOB mill, for Mexican other sugar is 23 cents. To equate this to a U.S. price, one must add transportation costs of 3-4 cents per pound, meaning that the effective minimum delivered price for Mexican sugar is approximately 20 percent in excess of the forfeiture equivalent price. The arithmetic is similar for refined sugar.

In summary, SUA submits that there was never a well-articulated policy rationale for increasing reference prices, other than the arbitrary demands of some interested parties, and in practice these higher prices have proven detrimental. We strongly support Commerce using this opportunity to delete the portion of the 2017 amendments that increased reference prices and allow the original signed 2014 agreements to stand in this regard.

Respectfully submitted,

Richard E. Pasco
President & General Counsel
Sweetener Users Association

PUBLIC CERTIFICATE OF SERVICE

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