



ROBERT C. CASSIDY, JR.

rcassidy@cassidylevy.com
Direct 202 567 2302
Main 202 567 2300

December 16, 2019

VIA ELECTRONIC FILING

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

Case Nos.: A-201-845
C-201-846
Total No. of Pages: 7
AD/CVD Suspension Agreements
E&C Office of Policy & Negotiations/BAU

PUBLIC DOCUMENT

**Re: Sugar from Mexico: Comments Regarding the Draft Amendments to
Suspension Agreements and Accompanying Memoranda**

Dear Secretary Ross:

On behalf of the American Sugar Coalition and its Members (collectively, “ASC”),¹ and pursuant to the December 4, 2019 request of the Department of Commerce (“Commerce”), we comment on the draft amendments to the agreements suspending the countervailing and antidumping duty investigations on sugar from Mexico, and their accompanying memoranda.²

¹ The members of the American Sugar Coalition are as follows: American Sugar Cane League, American Sugarbeet Growers Association, American Sugar Refining, Inc., Florida Sugar Cane League, Rio Grande Valley Sugar Growers, Inc., Sugar Cane Growers Cooperative of Florida, and the United States Beet Sugar Association.

² See *Draft Amendment to the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico and Draft Statutory Memorandum* (Dec. 4, 2019) (CVD Drafts); *Draft Amendment to the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico and Draft Statutory Memoranda* (Dec. 4, 2019) (AD Drafts) (together “Draft Amendments” and “Draft Statutory Memoranda”).

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On November 14 and 21, 2019,³ we commented extensively in support of the Draft Amendments. We reiterate those comments, continue to support the Draft Amendments, and urge Commerce to implement the Draft Amendments without change as soon as possible.

The Draft Statutory Memoranda explain thoroughly why the Draft Amendments are necessary and why they are in accordance with the requirements of the statute. In particular, Commerce explains in the Draft Statutory Memoranda how the draft changes work together to 1) minimize the chance that “Other Sugar” will compete with U.S.-produced “Refined Sugar” in the marketplace, 2) prevent the undercutting of U.S. prices, and 3) ensure the availability of “Other Sugar” for refining. We agree with the detailed explanations in the Draft Statutory Memoranda.⁴

Commerce also addresses the arguments raised by CSC Sugar, LLC (“CSC”) throughout this proceeding.⁵ CSC has made clear that it only opposes one aspect of the Draft Amendments, *i.e.*, the polarity-based definitions of “Other Sugar” and “Refine Sugar,” which CSC argues are unnecessary in light of the requirement that “Other Sugar” be shipped free-flowing in ocean-going vessels.⁶ CSC fails to understand that no individual provision will stop the injury that

³ See, respectively, *ASC Comments Regarding Proposed Amendments to Suspension Agreements* (Nov. 14, 2019); *ASC Rebuttal Comments Regarding Proposed Amendments to Suspension Agreements* (Nov. 21, 2019) (“ASC Nov. 21 Rebuttal Comments”).

⁴ See generally, Draft Amendments and Draft Statutory Memoranda.

⁵ See, e.g., CVD Draft Statutory Memoranda at 10-12; AD Draft Statutory Memoranda at 11-13.

⁶ See CSC’s *Submission to Clarify or Correct Information Placed on the Record by American Sugar Coalition* (ASC) (Nov. 27, 2019) at 2.

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continued under the 2014 Agreements. Each element of the Draft Amendments works with the other elements to minimize the risk that injury will continue. Although the requirement that “Other Sugar” be shipped in free-flowing ocean-going vessels, or the changes in definitions of “Other” and “Refined” sugar might, individually, increase the chance that “Other Sugar” will not bypass refiners and compete with U.S.-origin refined sugar in the U.S. market, all of the changes in the Draft Amendments together ensure that sugar imports from Mexico will not undercut U.S. prices and that an adequate supply of raw sugar reaches cane refiners.⁷ Simply put, without all the changes in the Draft Amendments, the injurious effect of the dumped and subsidized imports will not be eliminated.

Commerce explains that the Draft Amendments are necessary to eliminate the injury to the domestic industry as a whole, including CSC.⁸ Commerce should emphasize that CSC has stated unambiguously that it can refine the same low-polarity raw cane sugar that other domestic refiners refine⁹ and that it was quite successful under the 2017 Amendments.¹⁰ It is no surprise then that CSC has never explained how the Draft Amendments would cause any injury to it other than the economic disadvantage of not being able to source dumped and subsidized sugar, which

⁷ CVD Draft Statutory Memoranda at 6. *See also*, AD Draft Statutory Memoranda at 6.

⁸ CVD Draft Statutory Memoranda at 10-11; AD Draft Statutory Memoranda at 11.

⁹ ASC Nov. 21 Rebuttal Comments at 4.

¹⁰ *Id.* at 6.

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the U.S. Court of International Trade has ruled is not a harm under the statute.¹¹ As Commerce correctly notes, “no entity has the right to purchase dumped and subsidized Mexican sugar without paying antidumping and countervailing duties or complying with terms of suspension agreements that completely eliminate the injurious effect of imports from Mexico.”¹²

Finally, Commerce refers to an April 6, 2016 Congressional Research Service Report describing the “2014 Sugar Program”.¹³ We note that, although the current program is virtually identical to the 2014 program, the current sugar program was enacted in the Agricultural Improvement Act of 2018.¹⁴

Commerce has conducted a comprehensive negotiation under the rules of the statute and its regulations. Those negotiations have produced Draft Amendments that are necessary, consistent with the law, supported by the administrative record, agreed to by the Government of Mexico and the Mexican industry, and supported by domestic sugar beet growers, sugarcane growers, sugar cane millers, sugar beet processors, and the vast majority of cane refiners. Commerce should implement the Draft Amendments without change as soon as possible.

* * *

¹¹ *Imperial Sugar Co. v. United States*, 181 F. Supp. 3d. 1284, 1299-1300 (Ct. Int’l Trade 2016).

¹² CVD Draft Statutory Memoranda at 11 (citing ASC Nov. 21 Rebuttal Comments at 10).

¹³ CVD Draft Statutory Memoranda at Attachment 1; AD Draft Statutory Memoranda Drafts at Attachment 4.

¹⁴ Pub. Law. 115-334 (Dec. 20, 2018). See Congressional Research Service Report entitled “*The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*” by Mark A. McMinimy (February 22, 2019) available at <https://fas.org/sgp/crs/misc/R45525.pdf>.

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Please contact the undersigned if you have any questions.

Respectfully submitted,

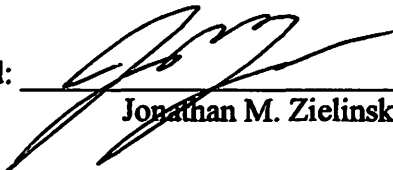
/s/ Robert C. Cassidy, Jr.

Robert C. Cassidy, Jr.
Charles S. Levy
James R. Cannon, Jr.
Jonathan M. Zielinski
CASSIDY LEVY KENT (USA) LLP
*Counsel to the American Sugar Coalition
and its Members*

CASSIDY LEVY KENT

REPRESENTATIVE CERTIFICATION

I, Jonathan M. Zielinski, of Cassidy Levy Kent (USA) LLP, counsel to the American Sugar Coalition and its members, certify that I have read the attached submission of "Comments Regarding the Draft Amendments to Suspension Agreements and Accompanying Memoranda" filed on December 16, 2019, pursuant to the agreements suspending the antidumping and countervailing duty investigations of Sugar from Mexico (A-201-845, C-201-846). In my capacity as counsel, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceedings, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signed: 
Jonathan M. Zielinski

Dated: 12-16-19

**U.S. DEPARTMENT OF COMMERCE
PUBLIC CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2019, a copy of the foregoing submission is being served, via first-class mail, on the following parties:

Jeffrey S. Grimson, Esq.
Mowry & Grimson PLLC
5335 Wisconsin Avenue, NW
Suite 810
Washington, DC 20015

Stephan E. Becker, Esq.
Pillsbury Winthrop Shaw
Pittman LLP
1200 Seventeenth Street, NW
Washington, DC 20036-3006

Rosa S. Jeong, Esq.
Greenberg Traurig LLP
2101 L Street, NW
Suite 1000
Washington, DC 20037

Jeffrey S. Neeley, Esq.
Husch Blackwell LLP
750 17th Street, NW
Suite 900
Washington, DC 20006-4675

Gregory J. Spak, Esq.
White & Case LLP
701 13th Street, NW
Washington, DC 20005-3807

Matthew R. Nicely, Esq.
Hughes Hubbard & Reed LLP
1775 I Street, NW, Suite 600
Washington, DC 20006-2401

Thomas Wilner, Esq.
Shearman & Sterling LLP
401 9th Street, NW
Suite 800
Washington, DC 20004

Richard E. Pasco
Sweetener Users Association
1100 New Jersey Avenue, SE
Suite 910
Washington, DC 20003

Aristeo Lopez
Embassy of Mexico
Trade and NAFTA Office
1911 Pennsylvania Avenue, NW
Washington, DC 20006

/s/ Matthew T. Martin
Matthew T. Martin
International Trade Specialist
CASSIDY LEVY KENT (USA) LLP