U.S. Refiner Challenges Mexican Sugar Trade Deal Amendments

By Brian Flood
Jan. 24, 2020, 10:21 AM

- **COURT:** Ct. Int'l Trade
- **TRACK DOCKETS:** No. 1:20-cv-00016, 1:20-cv-00017 (Bloomberg Law Subscription)

Sugar refiner CSC Sugar LLC is challenging the Trump administration's recent amendments to agreements regulating the importation of sugar from Mexico in a pair of lawsuits at the U.S. Court of International Trade, saying the changes are simply copied from previous amendments that were struck down by the trade court.

Under a pair of "suspension agreements" signed in 2014, the Commerce Department agreed to halt investigations on Mexican sugar that could have led to antidumping and countervailing duties. In return, the Mexican industry agreed to set minimum prices on different categories of sugar in order to prevent the negative effects these imports were supposedly having on competing U.S. producers.

CSC previously sued at the trade court challenging certain amendments to these agreements negotiated by the Trump administration in 2017. These amendments altered the definition of "refined sugar," moving from a minimum purity level of 99.5% to 99.2%, and required non-refined sugar to be transported to the U.S. in bulk and freely flowing in the holds of ocean vessels, among other changes.

CSC claimed that these changes unfairly benefited U.S. refiners with older mills built to handle lower-purity raw sugar, like cane sugar. Refiners like CSC with newer mills would face higher processing costs, the company said.

The trade court in October ruled for CSC, saying that Commerce's failure to maintain contemporaneous records of meetings it held with interested parties during negotiations violated the law and prejudiced CSC. The court vacated the amendments.

In November, Commerce reopened negotiations with the Mexican industry. On Jan. 22 it announced new amendments to the agreements. Once again, it set the minimum purity level of refined sugar at 99.2% and imposed the bulk shipment requirement. The amendments were also made retroactive to before the trade court's October rulings.

The "bulk shipment and polarity standards in the 'new' agreement had simply been copied from the 2017 amendment," and "the only reason for the polarity change is to stifle U.S. competition from CSC," according to the company's Thursday complaints.

CSC says Commerce failed to adequately consider the public interest, and that the polarity requirement was redundant in light of the bulk shipment requirement, which solved the problem of certain shipments being sold directly into competition with refined sugar.

Cause of Action: Tariff Act of 1930.
Relief: Order Commerce to vacate the amendments.
Response: Commerce has a policy of not commenting on pending litigation.
Attorneys: CSC is represented by Husch Blackwell LLP.

The case concerning the antidumping suspension agreement is CSC Sugar LLC v. United States, Ct. Int'l Trade, No. 20-00016, filed 1/23/20. The case concerning the countervailing duty suspension agreement is CSC Sugar LLC v. United States, Ct. Int'l Trade, No. 20-00017, filed 1/23/20.