Should USTR be Required to Reallocate the Raw Sugar TRQ in the Fall?

Issue: Should legislation require that the Office of the U.S. Trade Representative conduct a reallocation of the raw sugar tariff-rate quota during October or November of each year, with subsequent reallocations at the discretion of USTR?

Policy Proposal: To achieve mandatory reallocation, legislation should require that the U.S. Trade Representative, no later than November 30 of each year, use his or her authority under Additional U.S. Note 5(b) to Chapter 17 to reallocate quota shares otherwise assigned to countries that have exported no sugar against their quota shares during the previous 10 years, as well as quota shares of other countries that, in the USTR's judgment, are unable to fill all or part of their quotas during the current fiscal year

Current Status: USTR has the authority to allocate the raw and refined sugar TRQs among exporting countries under Additional U.S. Note 5(b) to Chapter 17 of the Harmonized Tariffs Schedules of the United States. This note also provides USTR with the authority to "modify, suspend … or reinstate" quota shares, an authority used each time a TRQ reallocation occurs during the fiscal year.

USTR has carried out at least one reallocation in nine of the 13 fiscal years 2008-2020. However, the earliest such reallocation occurred in February, with almost all other reallocations occurring between April and August.

Perennial Non-Shippers: The raw sugar TRQ is allocated to 40 different countries. Because the allocations are based on trade patterns from 1975-81 (the last time there was unrestricted trade in sugar imports), some allocations are provided each year to countries that no longer produce or export sugar, and therefore do not fill their quotas. (Quotas can only be filled with a quota-holding country's domestically-produced sugar; a quota holder cannot ship sugar of another country to fill the first country's quota.)

Nine countries – Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, St. Kitts and Nevis, Trinidad-Tobago and Uruguay – did not export a single ton of sugar during any of the fiscal years 2008-2020. A tenth country, Taiwan, exported in only one year, 2008. Cumulatively, these 10 countries account for 78,071 metric tons, raw value (86,058 short tons, raw value), of the raw sugar TRQ.

Some failures to fill quota shares may occur because quota-holders sell into other markets, or have unexpectedly short crops, and since this may not be known at the beginning of the fiscal year, it is unsurprising that USTR has historically reallocated only in the second half of the fiscal year. In the case of the 10 countries described above, however, there is no uncertainty about whether they will fill their quotas: They will not, because they no longer export or produce sugar. There is therefore no reason for USTR to delay reallocating this quantity of sugar to countries that will actually supply it.

Implications: Mandating at least one reallocation per year would tend to get additional quota more quickly into the hands of countries capable of filling it, provide additional certainty and predictability to the marketplace, and reduce quota shortfalls, while serving the more general goal of liberalizing trade in sugar.

Alternative means to accomplish the same thing would include permanently retiring the non-performing countries' quota and assigning it to other quota-holders, but there is some question whether the U.S. might then owe the disenfranchised countries compensation for the withdrawal of a tariff concession. Alternatively, USTR could establish a system of quota lease or permanent sale, which would at least provide some benefit to the non-performing countries, but the novelty of such a program, along with concerns that it might be exploited by trade houses, has so far prevented its adoption. The mandatory reallocation would accomplish the goal of getting quota into the hands of countries that will fill it, while staying within the guard-rails of the current longstanding allocation system.

Pros:

- Would make the reallocation process more predictable, providing greater transparency, while still preserving USTR's discretion to provide subsequent reallocations.
- Would potentially provide additional raw sugar supplies during the period when little sugar from Mexico is available.
- May reduce the net shortfall in TRQ fill by lengthening the amount of time within the fiscal year that is available for reallocation recipient countries to ship.
- Does not injure domestic producers because the total TRQ amount does not increase, only its distribution among countries; and because any decrease in the estimated TRQ shortfall would automatically reduce access for sugar from Mexico.
- To the extent that Mexican access was reduced, diversification among supply sources is enhanced, i.e., quota-holding countries other than Mexico have larger and more commercially attractive quantities to ship.

Cons:

- Even though total TRQ would not increase, domestic producers might oppose because of timing, i.e., the reallocation period coincides with the latter stages of the U.S. beet harvest and part of the cane harvest.
- Mexico may oppose because the greater the assumed shortfall in each WASDE that is used to calculate U.S. needs, the greater the resulting access for Mexico.
- Would not necessarily reduce shortfalls in years when USTR would have done a reallocation anyway because of market conditions.
- Could make subsequent reallocations less likely because USTR would have acted once already, and might be more susceptible to political pressure not to act a second time.
- Risk related to reallocation of TRQ away from countries that have unexpected supply come available later in the quota year.