



July 7, 2023

Office of the U.S. Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, DC 20508

**RE: Docket No. USTR-2023-0002, Federal Register (Vol. 88, No. 88), May 8, 2023, p. 29800**

These comments are submitted on behalf of the Sweetener Users Association (SUA), whose members use sugar and other nutritive sweeteners in manufacturing foods and beverages. Companies in the industries represented by SUA account for some 600,000 jobs in the United States. SUA appreciates the opportunity to provide our views on a request for comments entitled “Definition of Specialty Sugar in the Rules Concerning Allocation of the U.S. Refined Sugar Tariff-Rate Quota.”

In what follows, we respond directly to the six questions posed by the Office of the U.S. Trade Representative (USTR) with respect to whether the definition of specialty sugar should be amended to “[r]equire no further refining, processing, or other preparation prior to consumption, other than incorporation as an ingredient in human food.” SUA believes the definition should be so amended, and we explain why in response to USTR’s questions.

**1. Please indicate whether you would support amending the specialty sugar definition to reflect this criterion as part of the definition of specialty sugar. Please explain the rationale for your position.**

Yes, SUA would support amending the specialty sugar definition in this way. The need for such a definition stems from the outdated definition of “raw sugar” in the Harmonized Tariff Schedules of the United States (HTSUS) as any sugar with a polarization of less than 99.5 degrees. Any sugar with a polarization (or polarity) of 99.5 or greater is then considered eligible to fill refined sugar quotas, which reference a variety of tariff lines in several HTSUS chapters.

The specialty sugar TRQ is a subset of the refined sugar TRQ, but because of growth in the demand for organic sugar the specialty TRQ is routinely increased each year, typically by about 200,000 metric tons, raw value (MTRV), which is almost 10 times the minimum refined TRQ to which the United States is bound under international obligations. Thus, the specialty sugar TRQ is large enough to have an impact on domestic sugar markets.

The HTSUS definition is outdated because many food manufacturers require a significantly higher polarity in the sugar they acquire to make products, and this is also true of bagged sugar sold directly to consumers in grocery stores. These products need to utilize sugar with a polarity of 99.8 or 99.9. It follows that sugar may legally enter under the specialty sugar quota as refined

sugar, even though it is not in fact refined to the degree needed by many food manufacturers, and thus requires further refining before being usable.

By making clear that specialty sugar may not fill the TRQ if it requires further processing, USTR would be acting appropriately to limit the specialty sugar quota – which, again, is a subset of the *refined*, not raw sugar TRQ – to actual refined sugar in the commercial sense.

**2. Are there current circumstances, including with respect to market dynamics, that would support USTR amending the specialty sugar definition to reflect this criterion? Please explain your answer.**

Yes, there are such circumstances. At present, significant amounts of bulk sugar intermediate in polarity between raw sugar and true refined sugar are entered against the specialty sugar TRQ tranches. This sugar enters in sufficient quantities that each tranche is oversubscribed. The sugar that does not fill a given tranche may remain in a bonded warehouse and may subsequently enter U.S. territories as over-quota (“high-tier”) sugar. This practice has the potential to disadvantage competing suppliers who are attempting to enter sugar that is refined in the normal commercial sense; may distort sugar program decisions at the U.S. Department of Agriculture (USDA) by appearing to be available supply when that is not actually the case; and is a source of supply not immediately available to end users (because of the need for further refining) at a time when sugar supplies are not adequate and many sellers have been out of the market, i.e., not making any spot sales.

It is likely that extremely high U.S. sugar prices in recent years have encouraged this particular practice. Bulk or breakbulk shipments of sugar, attracted by these high prices in the conventional market, may enter as organic sugar but be sold as either organic or conventional sugar. However that may be, the problem is essentially the same: Sugar is being imported as “refined,” when it is not sufficiently refined to be acceptable by an end user but requires further processing.

If sugar could be freely imported into the United States, end users could simply seek out alternate sources of supply. But since U.S. sugar imports are strictly controlled, this option is much less feasible than it would be for almost any other agricultural commodity. Instead, USTR and USDA should ensure that their programs are executed, so as to achieve their underlying policy goals – in this case, making available specialty sugars to the U.S. market.

**3. How could the U.S. Government best enforce compliance with this criterion?**

The criterion of not requiring further refining is an appropriate one, and could be enforced through a variety of means, which could include –

- Requiring evidence that the sugar is immediately destined for an end user;
- Requiring that the sugar have a minimum polarity of 99.8;
- Prohibiting bulk or breakbulk shipping for such products;
- Specifying acceptable packaging; or
- Other means that would satisfy USTR that its regulations were being followed.

In most if not all cases, USTR could consider writing these criteria into the regulation itself, which would provide more certainty for importers and end users alike, as well as ensuring consistent enforcement across different ports of entry.

**4. How would this criterion improve or harm the operation of the specialty sugar TRQ? Please explain your views.**

SUA believes the operation of the specialty sugar TRQ would be improved by this criterion, in that legitimate importers of specialty sugar would be able to enter a higher percentage of their imports in each tranche, reducing total costs in the system.

**5. How would this criterion impact U.S. imports of sugar, including any impacts on trade from particular supplying countries?**

To the extent that current practices are providing an overestimate of total available stocks of sugar, an assertion made by multiple market participants, then the criterion may enhance available supplies by influencing more appropriate supply decisions by USDA. However, since the specialty TRQ is “first-come, first-served,” rather than being allocated by country like the raw sugar TRQ, there should be no disproportionate impacts on any particular countries.

**6. How would this criterion impact U.S. sugar prices, including prices for conventional sugars, organic sugars, raw sugars, refined sugars, or other sugar-containing products?**

SUA believes the criterion would improve TRQ program operations, reduce the lag time between when sugar is imported and when it reaches an end user, and make the system more efficient. As an association, we do not predict prices, but it seems likely that implementation of this criterion would make supplies relatively more adequate than they are at present. However, the quantities involved are such that there is no reason to believe that the criterion would make supplies burdensome.

SUA appreciates the opportunity to share our views and encourages USTR to move forward with amending the definition of refined sugar to reflect U.S. market needs.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Pasco". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Pasco  
President