SWEETENER USERS
ASSOCIATION

Greater Import Quota Flexibility Needed to Address Increased *Force Majeure* Declarations of Sugar Processors

Congress Can Address These Supply Chain Disruptions in the Farm Bill

Force Majeures Disrupt the Sugar Supply Chain

Force majeure is a legal term that refers to an unforeseen circumstance that prevents a party to a contract from fulfilling its obligations under the agreement. In sugar contracts, *force majeure* clauses protect processors from being forced to deliver when natural calamity or acts of God prevent them from doing so.

In Recent Years, *Force Majeures* Have Increased in Frequency and Reduced Sugar Supplies

After occurring infrequently for decades, four such *force majeure* declarations have been made in the past three calendar years — all in the beet industry.

These four declarations by sugar processors have occurred unexpectedly and involved hundreds of thousands of tons of beet sugar (see chart) that became unavailable in the U.S. sugar market. These more frequent declarations have seriously undermined the sugar supply that food companies need.

Thus, not only have the declarations become more frequent, they have also more heavily impacted the sugar market.

Recent *Force Majeure* Declarations

Date	Processor	% Reduction	Approximate Tonnage
1/1/20–9/30/20	United Sugars	18%	340,000
1/1/20–9/30/20	Western Growers	15%	65,000
4/1/22–9/30/22	Michigan Sugar	25%*	60,000
10/1/21–9/30/22	Western Growers	12%	70,000

** 25% reduction for the last two quarters (12.5% annualized).*
Source: Sosland Publishing Company.

U.S. Sugar Policy Compounds the Problem

The increasing frequency of *force majeure* declarations is not the only reason they are problematic. The sudden disruption of contracts is also coming at a time when the U.S. sugar program is making the sugar market tighter and tighter.

When a buyer is notified that 12 to 25 percent of the sugar it had contracted for as much as a year earlier will not be available, the buyer cannot readily pivot to alternate suppliers. This is because imports are limited by quotas; domestic sales are subject to marketing allocations; and, partly as a consequence of the latter, most domestic supplies tend to get tied up far in advance through forward contracts.

This leaves the buyer with two options: (1) wait for the U.S. Department of Agriculture (USDA) to announce an expansion of the tariff-rate quota (TRQ); or (2) import sugar by paying what were designed to be prohibitive over-quota tariffs.

USDA Has Solutions — and So Does Congress in the Farm Bill

Whether the reason for the sudden increase in *force majeure* declarations is because the processor put too much sugar under contract too soon or because of agronomic changes in growing patterns, it is clear that the sugar program as it is currently structured simply does not make enough sugar available to absorb the loss of sugar in the market due to more frequent *force majeure* declarations.

USDA should closely monitor the industry for such *force majeure* declarations and take immediate action to increase TRQs for raw and refined sugar to alleviate declaration-induced shortages promptly.

Congress can address these sugar supply chain disruptions by modernizing U.S. sugar policy when it reauthorizes the farm bill. Provisions in the farm bill giving USDA more flexibility in allowing sugar import increases when necessary would be a major step toward eliminating the most damaging effects of *force majeure* declarations on sugar markets.

The Sweetener Users Association (SUA) represents American food companies that use sugar to make the products U.S. consumers know and love — from sweet treats to everyday staples like bread, pasta sauce, yogurt and peanut butter. Sugar-using companies employ hundreds of thousands of Americans across the United States, including bakers, confectioners, factory workers and more.

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