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U.S. Stakeholders Critical of U.S.-Mexico Sugar Agreements

Overview

Two suspension agreements (SAs) between the United States and Mexico in December 2014 recast bilateral trade in Mexican sugar by imposing annual limits on exports and establishing minimum prices for this sugar. The agreements were entered into by the U.S. Department of Commerce (DOC) with the Mexican government and the Mexican sugar industry in lieu of imposing U.S. antidumping (AD) and countervailing duties (CVD) that would have otherwise been placed on Mexican sugar exports. The duties were the result of U.S. government determinations that Mexican sugar was being subsidized and dumped in the U.S. market—that is, sold at less than fair value—and that the U.S. sugar industry was materially injured by these practices. Over time, the agreements have come under increasingly pointed criticism from major stakeholders in the U.S. sugar economy, though with different views about how they should be amended or what arrangement should replace them.

Background on SAs

Under the SAs, the signatories agree to three fundamental restrictions to manage bilateral sugar trade and eliminate injury to the U.S. sugar industry.

1. Mexico agreed to limits on the quantity of sugar it is allowed to export to the United States based on an annual calculation of U.S. needs after factoring in U.S. production and tariff-rate quota imports;
2. Mexico's exports of refined sugar are limited to no more than 53% of its total, meaning that at least 47% of its exports must be raw cane sugar.
3. Mexican sugar exports are subject to minimum reference prices (at Mexican plants) of 26c/lb for refined sugar and 22.25c/lb for raw sugar, levels that are well above loan support levels for U.S. sugar of $18.75c/lb for raw cane sugar and 24.09c/lb for refined beet sugar.

Prior to the SAs, Mexican sugar represented the only unmanaged source of sugar in the U.S. market, a status it achieved in 2008 under the North American Free Trade Agreement (NAFTA). The U.S. sugar program manages sugar supplies by limiting the amount of sugar that U.S. processors can sell for domestic human use. Prices are further supported by government loans to processors using the sugar as collateral. The processors may keep the loan and forfeit the sugar to the government if market prices fall toward loan levels. Sugar imports, except those from Mexico, are limited through tariff-rate quotas and high over-quota tariffs.

An important consideration in structuring the agreements was to avoid an oversupply of sugar in the U.S. market that could depress prices and lead to costly forfeitures of domestic sugar under the U.S. sugar program. (For more on the U.S. sugar program, see CRS Report R43998, *U.S. Sugar Program Fundamentals*, by Mark A. McMinimy.)

Share of Mexican Cane to Refiners at Issue

A number of major stakeholders in the U.S. sugar market have soured on the agreements since they entered into force, contending that they are not working as intended. In part, this is because some U.S. cane sugar refiners that depend on imports of raw cane sugar from Mexico have received an inadequate proportion of the sugar that Mexico exports to the United States. This circumstance has left these refiners short of raw sugar to process into refined sugar and, according to some industry participants, is placing them in increasingly difficult economic straits. Sugar users are concerned that if these conditions continue, the potential loss of an existing cane refiner from the market could reduce competition among suppliers of refined cane sugar with adverse consequences for users.

Some stakeholders in the U.S. sugar market contend that Mexican suppliers are exporting quantities of refined sugar that are declared as raw sugar and then selling this sugar at less than the reference price established in the SAs for refined sugar. They contend that this practice is contributing to higher prices of raw cane sugar and lower prices for refined sugar, creating a cost-price squeeze for cane refiners while also posing a competitive threat to sugar beet processors who compete as suppliers of refined sugar.

At the very least, a number of close industry observers and participants contend that significant quantities of raw sugar are being shipped to market participants other than cane refiners, including liquid sugar producers for end use in foods such as candy, beverages, and ice cream. The criteria for raw sugar in the agreements is such that semi-refined sugar that requires little to no additional refining for conversion to liquid sugar at U.S. plants can qualify as raw sugar under the agreements. As such, a portion of Mexico's raw cane exports are bypassing traditional U.S. sugar cane refiners that produce crystalline sugar, reducing the supply of raw cane imports these refiners depend upon to maintain an adequate level of capacity utilization and profitability in favor of alternative outlets, among which are "melt houses" that produce liquid sugar.

By itself, the sale of Mexican raw cane sugar to melt houses is not a contravention of the SAs. But U.S. cane refiners and other sugar stakeholders point out that the Tariff Act of 1930 (19 U.S.C. §1671(c) and 1673(c)), which allows for SAs in lieu of imposing the AD and CVD duties on Mexican sugar, also requires that the injury created by the subsidization and dumping of Mexican sugar be entirely eliminated. These stakeholders assert that the plight of cane refiners that depend on Mexican cane sugar is evidence the SAs have failed to meet this standard of relief. Some of

these stakeholders also assert that the U.S. government has failed to effectively monitor the SAs as required under Sections 1671(d) and 1673(d) of the same statute, contending that quantities of Mexican sugar that meet the definition of refined sugar are being shipped under a declaration of raw cane and priced below the reference level established in the SAs for refined sugar, a practice that would tend to undercut U.S. refined sugar prices. Moreover, some elements of the U.S. sugar industry have expressed concern that this situation could result in potentially costly forfeitures of beet sugar under the U.S. sugar program, an outcome that Congress has directed the Secretary of Agriculture to avoid to the maximum extent possible.

U.S. Sugar Stakeholder Perspectives

In light of these concerns, DOC officials have been engaged in discussions with their Mexican counterparts for months on possible modifications to the SAs but without coming to terms. Major stakeholders in the U.S. sugar market generally agree that the SAs are not working out as intended but have taken very different positions in advocating for a possible successor arrangement.

The American Sugar Alliance—representing sugar cane and sugar beet producers and sugar processors, refiners, and workers—in November 2016 called on DOC to withdraw from the agreements, asserting that the agreements are not working as intended and that discussions between U.S. and Mexican officials on altering their terms have been unsuccessful. On November 29, 2016, DOC issued preliminary results of administrative reviews of the CVD and AD agreements requested by numerous U.S. sugar industry stakeholders. DOC found some indications that certain transactions of Mexican sugar may not have been in compliance with the SAs and that the SAs may not be meeting the statutory requirements, including whether the SAs are still in the public interest and whether there is an adequate supply of raw sugar for domestic cane refiners. But the agency said it needs more information before issuing final results, which, in the absence of revised SAs, it expects to do by early April 2017. Parties to the SAs have the option to terminate them at any time.

Consequences of Terminating the SAs

A decision to terminate the two sugar agreements would trigger the imposition of the AD and CVD duties that range from 5.78% to 43.93% and 40.48% to 42.14%, respectively. The duties are cumulative and would be paid by U.S. importers, so imposing them could push the price of Mexican sugar to potentially uncompetitive levels. Mexico is the leading foreign supplier of sugar to the U.S. market, supplying between 11% and 18% of the total of U.S. production plus imports in recent years (**Table 1**). As such, the loss of Mexican sugar could have meaningful consequences for U.S. sugar prices and for all participants in the U.S. sugar market. As such, some cane refiners have advocated retaining the SAs but with the proviso that the split between raw and refined exports under the SAs be adjusted so that the current maximum percentage of sugar that may be exported to the U.S. market as refined sugar of 53% would be sharply reduced so that the overwhelming majority of Mexican sugar exports would be in the form of raw cane. Some U.S. refiners also insist on adding criteria that would effectively mean that Mexican raw cane sugar would need additional processing by U.S. refiners.

Table 1. Sources of U.S. Sugar Supplies by Crop Year
(Percentage of U.S. Production Plus Imports)

Source	2013/2014	2014/2015	2015/2016
Domestic Production	69%	71%	73%
Imports from Mexico	18%	13%	11%
All Other Imports	13%	17%	17%

Source: U.S. Department of Agriculture.

Notes: Totals may not add up to 100% due to rounding.

Users Seek Revised Supply, Price Terms

From the opposite end of the U.S. sugar market, the Sweetener Users Association (SUA), which represents companies that use sugar in their business operations, has called for renegotiating the terms of the SAs. Although the SUA asserts the agreements further distort the already managed U.S. sugar market, the trade group contends that renegotiating the agreements is preferable to imposing the suspended AD and CVD duties, an action it contends would virtually eliminate Mexican sugar from the U.S. market. In a letter in mid-September 2016, SUA called on DOC to negotiate three key changes in the SAs with Mexico.

1. Reduce the minimum prices for Mexican sugar to U.S. loan support levels. Under the SAs, the minimum export price of Mexican raw cane of 22.25c/lb (at Mexican plants) compares with the national average U.S. loan support level for raw cane sugar of 18.75c/lb.
2. Increase the U.S. stock-to-use ratio in the formula that determines Mexico's annual export limit from 13.5%, raising the limit on Mexican sugar exports.
3. Increase the proportion of raw sugar that Mexico is required to export to the United States, thus increasing the availability of raw cane for U.S. refiners.

Issues for Congress

The SAs are intended to redress trade violations that caused injury to the U.S. sugar industry while operating alongside the framework of the U.S. sugar program to avoid loan forfeitures and government outlays. The sugar program expires with the 2018 crop on September 30, 2018, along with much of the 2014 farm bill (P.L. 113-79). As Congress considers the future of farm programs, it could consider whether the sugar program, in tandem with the sugar agreements with Mexico, represent a policy arrangement that best balances the needs of sugar industry stakeholders—including producers, processors, refiners, commercial users, consumers, and taxpayers—while also meeting U.S. trade commitments to foreign suppliers.

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