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Amended Sugar Agreements Recast U.S.-Mexico Trade

On June 30, 2017, the U.S. Department of Commerce (DOC), the Mexican government, and the Mexican sugar industry agreed to modify suspension agreements (SA) that have regulated bilateral trade in Mexican sugar since late 2014. The changes are meant to address criticisms by the U.S. sugar industry that the SAs have not effectively redressed the effects of trade violations tied to Mexican sugar. Among the key changes that are to take effect on October 1, 2017, minimum selling prices for Mexican sugar will be increased, while the maximum percentage of those imports that may enter as refined sugar will be lowered.

Mexico is the largest source of imported sugar to the United States and represents a significant share of the total U.S. sugar market, so changes governing this trade are likely to be felt across the U.S. market. Over the three most recently completed U.S. sugar marketing years (October-September), sugar from Mexico has amounted to between 11% and 18% of U.S. sugar production plus imports.

Background

The U.S. sugar market is one in which supplies are carefully managed, consistent with the U.S. sugar program authorized in the 2014 farm bill (P.L. 113-79). The program combines a price support feature with a supply management structure that limits both sugar production for domestic human use and sugar imports (See CRS In Focus IF10223, *Fundamental Elements of the U.S. Sugar Program*). The program is intended to support domestic sugar prices, avoid government outlays, and assure the availability of adequate supplies of beet and cane sugar.

U.S. sugar imports are controlled by tariff-rate quotas (TRQ) that limit quantities of sugar that are eligible to enter at low- or zero-duty rates under various trade agreements, while subjecting over-quota sugar, or sugar without such quota rights, to high rates of duty that generally preclude trade. The exception to this regime is sugar from Mexico, which attained duty-free, unrestricted access to the U.S. market beginning in 2008 under terms of the North American Free Trade Agreement (NAFTA).

Suspension Agreements Limit Mexican Sugar Imports

Mexico's unrestricted access to the U.S. sugar market ended in December 2014 when the U.S. Department of Commerce (DOC), Mexico, and Mexican sugar exporters signed antidumping duty (AD) and countervailing duty (CVD) suspension agreements (SAs) that imposed several limitations on this trade. The SAs prevented steep duties from being imposed on U.S. imports of Mexican sugar after the U.S. government concluded that Mexican sugar was being subsidized by the government and dumped in the U.S. market, and that these actions had injured the U.S. sugar industry. The CVD duties ranged from 5.78% to 43.93%, while the AD duties were between 40.48% and 42.14%. The duties were to be applied cumulatively to imported Mexican sugar. Mexican officials had threatened to retaliate against U.S. exports if the duties were imposed.

Since the SAs took effect in late 2014, U.S. imports of Mexican sugar have been limited based on an annual calculation of U.S. needs once U.S. production and imports of TRQ sugar have been subtracted from projected U.S. food use of sugar. Under the SAs, Mexican exporters also agreed to observe minimum reference prices for sugar exported to the United States that were higher than U.S. loan support levels, and to cap exports of refined sugar to no more than 53% of the total bilateral trade.

U.S. Industry Sours on Suspension Agreements

Since the SAs entered into force in late 2014, they have come under increasing criticism from major stakeholders in the U.S. sugar industry, who contend they are not working out as intended. Industry critics of the SAs include groups representing U.S. sugar producers, as well as cane refiners, beet processors, and commercial sugar users. One criticism is that Mexican shipments of raw cane sugar have been inadequate for the needs of U.S. cane refiners that rely on these imports to produce crystalline sugar, and that this supply shortfall poses a threat to the economic viability of some cane refiners. Beyond the cane refining industry, commercial users have expressed concerns that the loss of a major cane refiner could lessen competition among suppliers of crystalline sugar. Another criticism is that Mexican exporters have circumvented the reference prices in the SAs by shipping quantities of refined sugar that are declared as raw sugar. This alleged circumvention has drawn concern from U.S. sugar producers, beet processors, and cane refiners because selling refined sugar below the minimum reference price could have the effect of undercutting overall market prices for refined sugar.

The Tariff Act of 1930 (19 U.S.C. §§1671(c) and 1673(c)), which allows for the SAs in lieu of imposing AD and CVD duties (in this case Mexican sugar), also requires that the injury created by the subsidization and dumping of Mexican sugar be entirely eliminated. A number of U.S. stakeholders argued that the plight of some cane refiners due to the shortfall of raw cane imports was evidence the SAs have failed to meet this standard of relief. Some of these stakeholders also asserted that imports of refined Mexican sugar that allegedly were wrongly declared as raw sugar were evidence the U.S. government had failed to effectively monitor the agreements as required under this same statute.

In a review of the SAs in 2016, DOC drew several preliminary conclusions, including that some transactions of Mexican sugar may not have complied with the SAs and that the SAs might not have met their statutory

requirements. In the wake of the DOC review, the agency initiated discussions with Mexico and the Mexican sugar industry that resulted in a series of amendments to the SAs that were agreed upon and signed in June 2017.

Summary of Key 2017 Amendments

The June 2017 amendments retain the basic construct of the SAs, including setting initial overall limits on Mexican sugar imports, while attempting to address the shortcomings identified by U.S. stakeholders and in the DOC review by introducing a number of changes to the SAs. These changes include (1) raising the minimum selling prices for Mexican sugar sold to U.S. importers; (2) substantially lowering the maximum share of Mexican sugar that may be refined, thus effectively raising the minimum share of raw sugar imports; (3) specifying that raw sugar must be shipped in bulk, free-flowing in ocean-going vessels; (4) lowering the purity threshold, or "polarity," that separates raw from refined sugar under the SAs to increase the supply of non-refined sugar available to U.S. cane refiners; (5) increasing the penalties for violations of the SAs; (6) granting Mexico priority to supply any additional U.S. sugar needs that arise during the marketing year (referred to as additional needs sugar); (7) agreeing that after April 1, USDA is to specify whether any additional needs sugar is to be raw or refined, or a combination of both; (8) raising the minimum purity level for refined sugar if additional needs sugar is sought after May 1; and (9) providing USDA flexibility to specify the purity level of refined sugar above the initial export limit throughout the marketing year under extraordinary circumstances. For additional details, see **Table 1**.

U.S. Industry Viewpoints

U.S. industry responses to the amendments have been mixed. The American Sugar Alliance (ASA), representing U.S. sugar producers, processors, refiners, and workers, endorsed the changes. In doing so, ASA emphasized that vigilant U.S. government enforcement is needed to entirely eliminate the injury caused by the trade violations. The Corn Refiners Association, representing manufacturers of corn sweeteners, also endorsed the amended SAs, citing the potential threat to $500 million of U.S. corn sweetener exports to Mexico without them. The U.S. Chamber of Commerce lauded the deal for averting trade actions that would have led to job losses. But the Sweetener Users Association, consisting of businesses that use sugar in their products, roundly opposed the amendments, asserting the amended SAs will raise U.S. sugar prices, erode the competitiveness of U.S. manufacturers of sugar-containing foods and beverages, cause job losses in their industries, and lead to higher retail prices for consumers. The Coalition for Sugar Reform, which advocates for a broad array of business interests, including baking, confectionary, and food and beverage associations, as well as taxpayer and consumer groups, labeled the amendments "a bad deal," stating they would lead to higher sugar prices that would cost consumers $1 billion per year.

Possible Issues for Congress

When Congress reauthorized the U.S. sugar program as part of the 2014 farm bill, the SAs did not exist. Although these agreements have been negotiated outside the parameters of the U.S. sugar program, they are designed to work in tandem with it in support of the objectives of the program, while also recognizing Mexico's special status as a NAFTA partner. The sugar program, along with numerous other crop support and agricultural programs, is set to expire at the end of FY2018. As Congress considers successor legislation to the current farm bill, lawmakers may want to evaluate a number of issues related to the SAs, such as

- whether the amended SAs are likely to effectively redress Mexican trade violations that caused injury to the U.S. sugar industry;
- whether the SAs are consistent and compatible with the objectives of the U.S. sugar program to provide support for domestic sugar prices and assure adequate supplies of sugar for the domestic market without incurring government costs; and
- whether the SAs are an effective means of equitably balancing the legitimate interests of various stakeholders in the U.S. sugar market, including sugar producers, beet processors, cane refiners, commercial sugar users, and consumers.

Table 1. Selected Changes in U.S.-Mexico SAs

A Comparison of 2014 Agreements and 2017 Amendments

Selected Provision	2014 Suspension Agreements	2017 Amendments
Minimum import price for Mexican raw sugar	$0.2225/lb	$0.23/lb
Minimum import price for Mexican refined sugar	$0.26/lb	$0.28/lb
Maximum share of refined sugar imports	53%	30%
Minimum share of raw sugar imports	47%	70%
Minimum purity threshold for refined sugar under initial import limit	99.5 degrees polarity	99.2 degrees polarity
Minimum purity threshold for refined additional needs sugar	99.5 degrees polarity	99.5 degrees polarity

Source: U.S. Department of Commerce

Notes: Minimum import prices for Mexican sugar are at Mexican plants (and thus do not include shipping costs to U.S. importers) and compare with U.S. loan support rates for domestic sugar of $0.1875/lb for raw cane sugar and $0.2409/lb for refined beet sugar.

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