

C-201-846
Suspension Agreement
Public Document
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November 23, 2021

MEMORANDUM FOR: Interested Parties

FROM: Sally C. Gannon 
Director for Bilateral Agreements
Office of Policy
Enforcement and ComplianceSUBJECT: Agreement Suspending the Countervailing Duty Investigation on
Sugar from Mexico, as Amended: Increase of the Export Limit for
the October 1, 2021 - September 30, 2022 Export Limit Period,
Effective November 23, 2021

On November 19, 2021, the Department of Commerce (Commerce) received a letter from the U.S. Department of Agriculture (USDA)¹ requesting that Commerce increase the Export Limit² under the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as amended (amended CVD Agreement).³ In its letter, USDA states that it “has identified a need for additional sugar supplies in the U.S. market” and that it “requests that the Department of Commerce increase Mexico’s Export Limit by 150,000 short tons raw value of Other sugar to be exported no later than March 31, 2022.”⁴ USDA further states that “consistent with the definition of Other Sugar in the CVD Agreement, the additional sugar must have a polarity of less than 99.2 degrees, as produced and measured on a dry basis.”⁵

USDA has requested that Commerce increase the Export Limit for the October 1, 2021, through September 30, 2022 Export Limit Period, by a total of 150,000 short tons raw value (STRV) of Other Sugar from Mexico.⁶ In addition, USDA requests that such sugar be exported to the United States no later than March 31, 2022.

¹ See USDA’s Letter, “Mexican Sugar CVD Agreement—Request for Increase in Mexican Sugar Export Limit,” dated November 19, 2021 (USDA Request Letter), provided herein at Attachment.

² The term “Export Limit” is defined in Section II.F of the CVD Agreement.

³ See *Sugar from Mexico: Suspension of Countervailing Duty Investigation*, 79 FR 78044 (December 29, 2014) (CVD Agreement); and *Sugar from Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 FR 3620 (January 22, 2020) (CVD Amendment) (collectively, amended CVD Agreement).

⁴ See USDA Request Letter.

⁵ *Id.*

⁶ The terms “Export Limit Period” and “Other Sugar” are defined in Sections II.G and II.K.a, respectively, of the CVD Agreement and CVD Amendment.



On September 13, 2021, Commerce calculated an Export Limit of 758,730 STRV, effective as of October 1, 2021, for the October 1, 2021 through September 30, 2022 Export Limit Period.⁷ Section V.B.4.a of the amended CVD Agreement provides that Commerce shall increase the Export Limit, prior to April 1, to address potential shortages in the U.S. market if notified in writing by USDA of a request for additional sugar. Section V.B.4.f of the amended CVD Agreement provides that: (1) any additional sugar may be limited, as specified by USDA, to Other Sugar or Refined Sugar⁸ or any combination thereof; and (2) Section V.C of the amended CVD Agreement does not apply to any additional sugar exported by Mexico pursuant to Section V.B.4.

Commerce has evaluated USDA's request for additional sugar to address a need in the U.S. market and finds it to be consistent with Sections V.B.4.a and V.B.4.f of the amended CVD Agreement. Section V.B.4.a states that “{p}rior to April 1 of any Export Limit Period, if USDA notifies Commerce, in writing, of any additional need for Sugar, Commerce shall, consistent with 704(c) of the Act, increase the Export Limit to address potential shortages in the U.S. market **based on USDA's request**” (emphasis added).⁹ Section V.B.4.f states in part that “Section V.C does not apply to any additional Sugar exported by Mexico pursuant to this Section V.B.4.”¹⁰ Further, Section V.C.2 states that “{n}o more than 55 percent of U.S. Needs calculated in each *September* and effective January 1 may be exported to the United States during the period October 1 through March 31”¹¹ Commerce finds that, for the reasons detailed below regarding the need for the additional sugar, USDA's requested restriction on the date by which the noted quantity of additional sugar must be exported, *i.e.*, March 31, 2022, does not conflict with Section V.C.2.

Based on USDA's written request, as described above, Commerce is increasing the Export Limit for Sugar from Mexico, for the October 1, 2021 through September 30, 2022 Export Limit Period, by a total of the additional sugar identified by USDA, *i.e.*, 150,000 STRV of Other Sugar. Consistent with Section II.K.a of the amended CVD Agreement, Other Sugar is defined as “Sugar at a polarity of less than 99.2, as produced and measured on a dry basis.”

Commerce finds USDA's request to be consistent with Section 704(c) of the Tariff Act of 1930, as amended (the Act), because the increase to Mexico's Export Limit is specific to USDA's estimate of the amount and type of sugar needed in the U.S. market. Furthermore, Commerce finds USDA's requested shipping pattern requirement regarding the date by which such additional quantities of Other Sugar must be exported, *i.e.*, by March 31, 2022, to be consistent with Section 704(c) of the Act in that this requirement is intended to ensure the timely availability of input sugar for further processing by the domestic refining industry. Therefore, based on USDA's request, Commerce is requiring the amount of additional sugar in the instant increase, *i.e.*, 150,000 STRV of Other Sugar, to be exported to the United States by no later than March 31, 2022.

⁷ See Memorandum, “Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as Amended: Calculation of the Export Limit for the October 1, 2021 through September 30, 2022 Export Limit Period, Effective October 1, 2021,” dated September 13, 2021).

⁸ “Refined Sugar” is defined in Section II.L of the amended CVD Agreement.

⁹ See Section V.B.4.a of the CVD Amendment.

¹⁰ *Id.* at Section V.B.4.f.

¹¹ *Id.* at Section V.C.2.

The revised Export Limit, applicable for the October 1, 2021 through September 30, 2022 Export Limit Period, for Sugar from Mexico is 908,730 STRV. Pursuant to Section V.B.4.f of the amended CVD Agreement, the restrictions provided in Section V.C of the amended CVD Agreement do not apply to the additional sugar, *i.e.*, 150,000 STRV of Other Sugar, exported by Mexico. Because Section V.C.3 does not apply to the 150,000 STRV of additional sugar in the instant increase, Refined Sugar, thus, may account for no more than 227,619 STRV in total (*i.e.*, 30 percent of 758,730 STRV) exported from Mexico during this Export Limit Period.¹² While Section V.B.4.f permits additional sugar exported by Mexico pursuant to Section V.B.4 to be exported at any time during the Export Limit Period,¹³ Commerce has determined that, based on USDA's request, the 150,000 STRV of Other Sugar in the instant increase must be exported to the United States by **no later than March 31, 2022**.

¹² The language of Section V.C.3 in the CVD Amendment states that "Refined Sugar may account for no more than 30 percent of the exports during any given Export Limit Period."

¹³ See Sections V.B.4.f and V.C.1 and V.C.2 of the amended CVD Agreement.

ATTACHMENT



United States
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November 19, 2021

Ryan Majerus
Acting Assistant Secretary for Enforcement & Compliance
International Trade Administration
U.S. Department of Commerce
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Mexican Sugar CVD Agreement—Request for Increase in Mexican Sugar Export Limit

Dear Mr. Majerus,

The U.S. Department of Agriculture has identified a need for additional sugar supplies in the U.S. market and hereby requests that the Department of Commerce increase Mexico's Export Limit by 150,000 short tons raw value of Other sugar to be exported no later than March 31, 2022, pursuant to Section V.B.4.a of the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as amended on January 15, 2020 ("CVD Agreement"). Also, consistent with the definition of Other Sugar in the CVD Agreement, the additional sugar must have a polarity of less than 99.2 degrees, as produced and measured on a dry basis. We note that the restrictions set forth under Section V.C of the CVD Agreement do not apply to this additional sugar, pursuant to Section V.B.4.f of the CVD Agreement.

Sincerely,

Joe Wereszynski
Senior Policy Advisor,
Multilateral Affairs Division
Trade Policy and Geographic Affairs

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