



C-201-846
Suspension Agreement
Public Document
ITA/E&C/P&N/OP/BAU: JAB

July 1, 2022

MEMORANDUM FOR: Interested Parties

FROM: Sally C. Gannon 
Director for Bilateral Agreements
Office of Policy
Enforcement and Compliance

SUBJECT: 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 July 1, 2022

On June 29, 2022, the U.S. 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 (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 no later than July 8, 2022, Mexico’s FY 2022 Export Limit by 135,000 short tons raw value of Other sugar to be exported no later than September 30, 2022, pursuant to Section V.B.4.c” of the CVD Agreement.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 99.5, 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 135,000 short tons raw value (STRV) of Additional U.S. Needs Sugar from Mexico of a polarity of less than 99.5 degrees.⁶ On November 23, 2021, Commerce increased the Export Limit for the October 1, 2021 through September 30, 2022 period by an amount of additional sugar requested by USDA, *i.e.*, 150,000

¹ See USDA’s Letter, “Mexican Sugar CVD Agreement—Request for Increase in Mexican Sugar Export Limit,” dated June 29, 2022 (USDA Request), 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); and *Sugar from Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 85 FR 3613 (January 22, 2020) (collectively, CVD Agreement).

⁴ See USDA Request.

⁵ *Id.*

⁶ The terms “Export Limit Period” and “Additional U.S. Needs Sugar” are defined in Sections II.G and II.U, respectively, of the CVD Agreement.

STRV of Other Sugar at a polarity of less than 99.2, as produced and measured on a dry basis.⁷ On March 11, 2022, Commerce calculated an Export Limit of 1,037,400 STRV, effective as of April 1, 2022, for the current Export Limit Period.⁸ On April 28, 2022, Commerce increased the Export Limit by an amount of Additional U.S. Needs Sugar requested by USDA, *i.e.*, 170,000 STRV of Other Sugar at a polarity of less than 99.2, as produced and measured on a dry basis.⁹

Sections V.B.4.b and V.B.4.c of the CVD Agreement provide that Commerce shall consult with USDA and the Government of Mexico (GOM) regarding any potential increase in the Export Limit on or after April 1. USDA may inform Commerce in writing, pursuant to such consultations, of an additional need for sugar from Mexico. Commerce shall increase the Export Limit by the amount and type of such Additional U.S. Needs Sugar requested by USDA upon receiving written confirmation from the GOM that Mexico can and will supply 100 percent of the Target Quantity of U.S. Needs (as calculated pursuant to Section V.B.3 based on USDA's March World Agricultural Supply and Demand Estimates report).

Pursuant to Section V.B.4.b of the CVD Agreement, Commerce has held consultations with the GOM and USDA.¹⁰ After receiving USDA's June 29, 2022 letter, Commerce requested written confirmation from the GOM, pursuant to Section V.B.4.c, that Mexico can and will supply 100 percent of the Target Quantity of U.S. Needs (as calculated pursuant to Section V.B.3 based on the March WASDE, *i.e.*, 1,037,400 STRV¹¹).¹² On June 29, 2022, Commerce received confirmation from the GOM in this regard.¹³

Therefore, based on USDA's written request and the GOM's written confirmation regarding the supply of U.S. Needs, 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 U.S. Needs Sugar identified by USDA, *i.e.*, 135,000 STRV of Other Sugar. Consistent with Sections V.B.4.c and II.K.b of the CVD Agreement, when such Additional U.S. Needs Sugar is requested by USDA, and in turn offered to Mexico by Commerce, the definition for Other Sugar in Section II.K.b shall apply after May 1 of any Export Limit Period, *i.e.*, Sugar at a polarity of less than 99.5, as produced and measured on a dry basis.¹⁴

⁷ See Memorandum, "Increase of the Export Limit for the October 1, 2021 - September 30, 2022 Export Limit Period, Effective November 23, 2021," dated November 23, 2021 (November 2021 Export Limit Increase).

⁸ See Memorandum, "Calculation of the Export Limit for the October 1, 2021 through September 30, 2022 Export Limit Period, Effective April 1, 2022" dated March 11, 2022 (March Export Limit Calculation).

⁹ See Memorandum, "Increase of the Export Limit for the October 1, 2021 - September 30, 2022 Export Limit Period, Effective April 28, 2022," dated April 28, 2022 (April 2022 Export Limit Increase).

¹⁰ See Memorandum, "June 2022 Additional U.S. Needs Sugar Consultations," dated July 1, 2022 (June Consultations Memorandum).

¹¹ See March Export Limit Calculation at the attached worksheet.

¹² See June Consultations Memorandum at Attachment 6.

¹³ *Id.* at Attachment 7.

¹⁴ See Section II.K.b of the CVD Agreement. In addition, Section II.K of the CVD Agreement states, "Other Sugar must be exported to the United States loaded in bulk and freely flowing (*i.e.*, not in a container, tote, bag or otherwise packaged) into the hold(s) of an ocean-going vessel. To be considered as Other Sugar, if Sugar leaves the Mexican mill in a container, tote, bag or other package (*i.e.*, is not freely flowing), it must be emptied from the container, tote, bag or other package into the hold of the ocean-going vessel for exportation. All other exports of Sugar from Mexico that are not transported in bulk and freely flowing in the hold(s) of an ocean-going vessel will be considered to be Refined Sugar for purposes of the Export Limit or Additional U.S. Needs Sugar, regardless of the polarity of that Sugar."

The revised Export Limit, applicable for the October 1, 2021 through September 30, 2022 Export Limit Period, for Sugar from Mexico is 1,342,400 STRV. Pursuant to Section V.B.4.f of the CVD Agreement, the restrictions provided in Section V.C of the CVD Agreement do not apply to the Additional U.S. Needs Sugar, *i.e.*, 135,000 STRV of Other Sugar of a polarity of less than 99.5 degrees, exported by Mexico. Because Section V.C.3 does not apply to the 135,000 STRV of Additional U.S. Needs Sugar in the instant increase (at a polarity of less than 99.5 degrees), nor to the previous increases of 150,000 STRV of additional sugar (at a polarity of less than 99.2)¹⁵ and of 170,000 STRV of Additional U.S. Needs Sugar (at a polarity of less than 99.2),¹⁶ Refined Sugar exported from Mexico during this Export Limit Period, thus, may account for no more than 266,220 STRV in total (*i.e.*, 30 percent of 887,400 STRV).¹⁷

¹⁵ See November 2021 Export Limit Increase.

¹⁶ See April 2022 Export Limit Increase.

¹⁷ See March Export Limit Calculation at 1-2. The language of Section V.C.3 in the CVD Agreement states that “Refined Sugar may account for no more than 30 percent of the exports during any given Export Limit Period.” “Refined Sugar” is defined in Section II.L of the CVD Agreement.

ATTACHMENT



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Lisa Wang
Assistant Secretary for Enforcement & Compliance
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U.S. Department of Commerce
14th and Constitution Avenue, N.W.
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Re: Mexican Sugar CVD Agreement—Request for Increase in Mexican Sugar Export Limit

Dear Ms. Wang,

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 no later than July 8, 2022, Mexico's FY 2022 Export Limit by 135,000 short tons raw value of Other sugar to be exported no later than September 30, 2022, pursuant to Section V.B.4.c 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 99.5, 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,

A handwritten signature in cursive script that reads "Joe Hain".

Joe Hain
Acting Senior Director
Multilateral Affairs Division
Trade Policy and Geographic Affairs