UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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

April 30, 2021

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: Increase of the Export Limit for the October 1, 2020 - September 30, 2021 Export Limit Period, Effective April 30, 2021

On April 29, 2021, 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 Limit[2] under the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as amended on January 15, 2020 (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 50,000 short tons raw value of Other Sugar, consistent with Section V.B.4.c" of the amended 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 99.2 degrees, as produced and measured on a dry basis."[5]

USDA has requested that Commerce increase the Export Limit for the October 1, 2020, through September 30, 2021 Export Limit Period, by a total of 50,000 short tons raw value (STRV) of Additional U.S. Needs Sugar from Mexico of a polarity of less than 99.2 degrees.[6]

On March 10, 2021, Commerce calculated an Export Limit of 927,920 STRV, effective as of April 1, 2021, for the October 1, 2020 through September 30, 2021 Export Limit Period.[7]

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[1] *See* USDA's Letter, "Mexican Sugar CVD Agreement—Request" (April 29, 2021) (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) (CVD Agreement) and *Sugar From Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 85 FR 3613 (January 22, 2020) (CVD Amendment) (collectively, amended 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 and the CVD Amendment.
[7] *See* Memorandum, "Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as Amended: Calculation of the Export Limit for the October 1, 2020 through September 30, 2021 Export Limit Period, Effective April 1, 2021" (March 10, 2021).

INTERNATIONAL TRADE ADMINISTRATION

Sections V.B.4.b and V.B.4.c of the amended 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 amended CVD Agreement, Commerce has held consultations with the GOM and USDA.[8] Upon receiving USDA's April 29, 2021 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. On April 29, 2021, Commerce received confirmation from the GOM in this regard.[9] 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, 2020 through September 30, 2021 Export Limit Period, by a total of the Additional U.S. Needs Sugar identified by USDA, *i.e.*, 50,000 STRV of Other Sugar. Consistent with Sections V.B.4.c and II.K.a of the amended 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.a shall apply prior to May 1 of any Export Limit Period, *i.e.*, Sugar at a polarity of less than 99.2, as produced and measured on a dry basis.[10]

The revised Export Limit, applicable for the October 1, 2020 through September 30, 2021 Export Limit Period, for Sugar from Mexico is 977,920 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 U.S. Needs Sugar, *i.e.*, 50,000 STRV of Other Sugar of a polarity of less than 99.2 degrees, exported by Mexico. Because Section V.C.3 does not apply to the 50,000 STRV of Additional U.S. Needs Sugar in the instant increase,[11] Refined Sugar, thus, may account for no more than 278,376 STRV in total (*i.e.*, 30 percent of 927,920 STRV) exported from Mexico during this Export Limit Period.

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[8] *See* Memorandum, "April 2021 Additional U.S. Needs Sugar Consultations," dated April 30, 2021.
[9] *Id*. at Attachment 7; *see also* Memorandum, "March 2021 Additional U.S. Needs Sugar Consultations," dated April 6, 2021 at Attachment 4.
[10] *See* Section II.K.a of the CVD Amendment. In addition, Section II.K.c of the amended 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."
[11] 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." "Refined Sugar" is defined in Section II.L of the CVD Amendment.

ATTACHMENT

United States Department of Agriculture

Trade and Foreign Agricultural Affairs

Foreign Agricultural Service

1400 Independence Ave, SW
Stop 10XX
Washington, DC 20250-10XX

April 29, 2021

Christian Marsh,
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

Dear Mr. Marsh,

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 50,000 short tons raw value of Other Sugar, consistent with 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 99.2 degrees, as produced and measured on a dry basis. We note that the restrictions on 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,

Lori Tortora
Senior Policy Advisor,
Multilateral Affairs Division
Trade Policy and Geographic Affairs