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Draft Amendments to Mexican Sugar Suspension Agreements

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Trade and Investment **Mexico** **Antidumping** **Countervailing Duty (CVD)**

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What are the Key Elements of the Deal?

The Department of Commerce and the Government of Mexico and the Mexican sugar industry have reached agreement on draft amendments to the antidumping duty (AD) and countervailing duty (CVD) suspension agreements on sugar from Mexico.

The draft amendments, if finalized, would update certain provisions, such as, in the CVD agreement, the ratio between the quantities of Refined and Other Sugar that Mexico may export to the United States during a given export limit period, and the polarity division between the two types of sugar.

Further, in the AD agreement, the minimum prices of Other Sugar and Refined Sugar would be higher to ensure that Mexican sugar imports do not suppress or undercut domestic price levels, in accordance with statutory requirements.

Finally, each agreement would contain enhanced monitoring and enforcement provisions such as a requirement for polarity testing and stiff penalties for non-compliance.

Each of these elements of the draft amendments, if finalized, would ensure that the agreements provide an adequate remedy to the U.S. domestic sugar industry against the dumping and unfair subsidization determined in the investigations.

In addition, the amendments will ensure that the sugar suspension agreements continue to promote stability in the U.S sugar market, in coordination with USDA's sugar program.

What are the Improvements and How Do They Address the Problems?

The AD and CVD Agreements signed by the Department and the GOM in December 2014 differentiated between “Refined Sugar” at a polarity of 99.5 degrees and above, and “Other Sugar” at a polarity less than 99.5 degrees, and provided that no more than 53 percent of Mexican exports could be of Refined Sugar.

By contrast, the draft amendments define “Refined Sugar” as sugar at a polarity of 99.2 degrees and above, and “Other Sugar” as sugar at a polarity less than 99.2 degrees and shipped in bulk, freely flowing.

These changes, which move the dividing line between Refined and Other Sugar down to 99.2 from 99.5 degrees, and add shipping conditions for Other Sugar, address concerns regarding ensuring an adequate supply of sugar in the U.S. market, and concerns that a large portion of Other Sugar is bypassing cane refiners for direct consumption or end use.

Specifically, the petitioners have asserted that the sale of Mexican semi-refined sugar subject (to which the lower reference price of Other Sugar set in the AD Agreement applies) hinders the competitiveness of U.S. cane refiners by substantively diminishing the supply of Mexican sugar for their processing operations, and suppressing U.S. prices for refined sugar.

Because these changes substantially decrease the proportion of Sugar from Mexico that may be Refined Sugar and mean that a higher reference price applies to semi-refined sugar, there is a greater likelihood that sufficient sugar for further processing would be available in the U.S. market.

For *post-April 1* additional needs sugar (over the expected fiscal year U.S. needs) granted to Mexico, USDA will specify whether raw or refined sugar is needed but at a polarity divide of 99.5 and without regard to the pre-April 1 70/30 split. Importantly, when additional needs sugar is granted to Mexico *prior to April 1*, such sugar shall be subject to the pre-April 1 70/30 split and the 99.2 polarity divide, added protections for U.S. domestic refiners. Further, USDA retains the flexibility to specify the polarity of *post-April 1* additional needs sugar specifically needed to rectify certain extraordinary and unforeseen circumstances that seriously threaten the economic viability of the U.S. sugar refining industry.

Further, the reference price for Other Sugar is being raised from 22.25 cents/pound to 23 cents/pound, while the Refined Sugar price is being raised from 26 cents/pound to 28 cents/pound.

In addition, the spread between the two prices has increased. This enhanced pricing structure serves to ensure that U.S. producers’ prices are not suppressed or undercut by imports of Mexican sugar, thereby ensuring that the agreements provide an adequate remedy to the U.S. domestic industry found to have been injured.

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