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New Era Dawns in U.S.-Mexico Sugar Trade

Overview

On December 19, 2014, the U.S. Department of Commerce (DOC) signed an agreement with the Government of Mexico suspending the agency's countervailing duty (CVD) investigation into subsidization of Mexican sugar exports. The DOC also signed a second agreement with Mexican sugar producers and exporters that suspends an antidumping (AD) duty investigation into Mexican sugar exports to the United States. Beginning in 2008, Mexican sugar exporters occupied a uniquely favored position among sugar exporters supplying the U.S. market, because the North American Free Trade Agreement (NAFTA) provided Mexican sugar with unlimited, duty-free access. The two suspension agreements fundamentally alter the nature of trade in sugar between Mexico and the United States: first by imposing volume limits on Mexican sugar exports to the U.S. market, and second by setting minimum price levels for the exported sugar.

Background

Historically, the U.S. sugar market has been managed to help stabilize supplies and prices (see CRS Report R42535, *Sugar Program: The Basics*, by Mark A. McMinimy). Prices of U.S. sugar are supported via government commodity loans and by limiting supplies of sugar for human use. Domestic production for human consumption is managed through marketing allotments, while imports of sugar are controlled via tariff-rate quotas (TRQs). Prior to the finalization of the two sugar suspension agreements, the exception to the limit on sugar imports was Mexican sugar, which had unrestricted, duty-free access to the U.S. market under NAFTA.

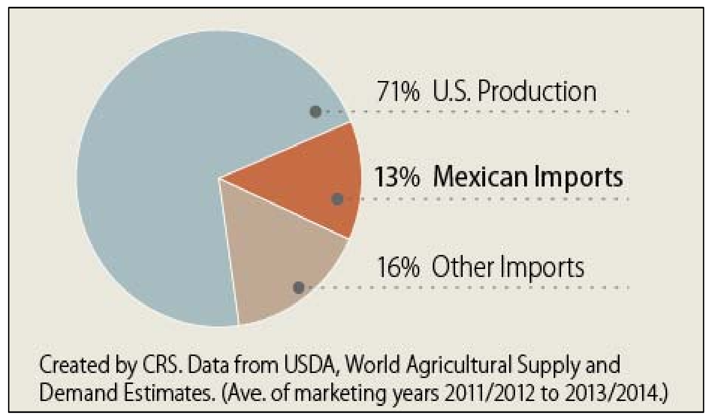
The two CVD and AD agreements signed in December 2014 suspend the CVD and AD investigations that led U.S. government agencies to issue preliminary findings that Mexican sugar was being subsidized by the Mexican government, and sold in the U.S. market at less than fair value. Based on these preliminary findings, the DOC had imposed cumulative duties on U.S. imports of Mexican sugar, ranging from 2.99% to 17.01% under the CVD order and from 39.54% to 47.26% under the AD order. Final determinations in the two investigations had not yet been issued when the agreements were signed. A negative final determination in either of the two investigations (i.e., an outcome that did not affirm the preliminary findings that Mexican sugar was being subsidized and dumped in the U.S. market) would have negated the corresponding duties.

The suspension agreements are the end result of parallel CVD and AD investigations initiated in the spring of 2014 by the International Trade Commission (ITC) and the International Trade Administration (ITA) of the DOC in response to petitions filed by the American Sugar Coalition (ASC). The ASC alleged that exported sugar from Mexico was being subsidized and was entering the U.S. market at less than fair value—defined as below the sale price in Mexico, or below the cost of production—thereby injuring the U.S. sugar industry.

Mexican Sugar in the U.S. Market

Mexico has been a significant source of sugar in the U.S. market in recent years, as **Figure 1** illustrates. During the three most recently completed marketing years, from 2011/2012 to 2013/2014, Mexican sugar amounted to between 9% and 17% of the sum of U.S. sugar production and total sugar imports, while averaging 13% over this same period.

Figure 1. Sources of U.S. Sugar Supply



Source: CRS.

Elements in the Suspension Agreements

- Both agreements cover raw, estandar, or standard, high-polarity or semi-refined, special white, refined, brown, edible molasses, desugaring molasses, organic raw, and organic refined sugars, as well as other sugar products such as powdered, colored, and flavored sugars, and liquids and syrups that contain 95% or more sugar by dry weight.
- Excluded from the scope of these agreements are sugar imported under the Refined Sugar Re-Export Programs of the U.S. Department of Agriculture; sugar products produced in Mexico that contain 95% or more sugar by dry weight that originated outside Mexico; inedible molasses; beverages; candy; processed food products that contain sugar, such as cereals; and specialty sugars, including caramelized slab sugar candy, pearly sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations.
- U.S. imports of Mexican sugar are limited to an assessment of domestic needs by the U.S. Department of

Agriculture (USDA) in July, with the initial calculation subject to a recalculation in September, December, and March, with the potential for upward revisions to Mexico's export limit. Mexico's export limit is the residual of U.S. needs less domestic production and imports from tariff-rate quota (TRQ) countries.

- The government of Mexico is to determine the amount of sugar that each Mexican sugar producer/exporter can export to the United States, and is to issue export licenses in tandem with these allotments that must accompany Mexican sugar exports to the United States.
- Mexico agrees not to use imported sugar to fill a domestic shortfall in order to be in a position to ship sugar against its export limit to the United States.
- New restrictions are imposed on the pattern of sugar exports from Mexico to the United States as follows: no more than 30% of U.S. needs in a given export period as calculated on July 1 from October 1 through December 31; and no more than 55% of U.S. needs from October 1 through March 31. The initial export period is December 19 through September 30, and thereafter from October 1 through September 30.
- Mexican sugar exporters are subject to reporting requirements to monitor compliance with quantitative limits and minimum price levels; violations are subject to civil penalties and potential loss of export licenses.
- Cash deposits collected by U.S. Customs and Border Protection as a result of the CVD and AD duty investigations are to be remitted.
- The agreements have no termination date, but signatories may terminate them at any time; suspended CVD and AD investigations are subject to a review after five years.
- The investigations would be resumed if a signatory to the agreements, or an interested party such as a U.S. sugar refiner, were to request such within 20 days of public notice of the agreements.

Key Changes from Draft Agreements

The final CVD and AD agreements include several changes from the draft agreements initialed in October, among which the following three are perhaps the most significant.

- Minimum reference prices of Mexican sugar exports are raised in the final AD agreement to $0.26 per pound for refined sugar and $0.2225 for all other sugar (from $0.2357 per pound and $0.2075 per pound, respectively, in the draft agreement). Prices are based on dry weight, commercial value, f.o.b. Mexican plant. These prices are well above loan rates under the U.S. sugar program of $0.1875 for raw cane sugar and $0.2409 for refined beet sugar, both per pound.
- Exports of Mexican refined sugar are limited to 53% of Mexico's allowable export quantity in a given period (initially December 19, 2014, to September 30, 2015, and thereafter, from October 1 through September 30), down from 60% in the draft CVD agreement.
- Refined sugar is defined as having a polarity of 99.5% and above, compared with 99.9% in the draft agreements, to be consistent with existing standards.

Legal Authority and Stakeholder Views

Sections 704 and 734 of the Tariff Act of 1930 (19 U.S.C. §1671(c) and §1673(c)), as amended, provide the legal authority for the CVD and AD suspension agreements, respectively.

Among key stakeholders, the American Sugar Alliance, a coalition of U.S. sugarcane and sugar beet producers, processors, refiners, workers and suppliers, issued a statement in support of the agreements, indicating they should stop Mexico from dumping subsidized sugar onto the U.S. market, and asserting they are a "good deal" for U.S. sugar producers, taxpayers and consumers. The Sweetener Users Association, composed of businesses using sweeteners, blasted the agreements, contending they dismantle free trade in sugar between the United States and Mexico, undermine core principles of NAFTA, and force consumers and businesses to pay more for sugar. The SUA asserted the suspension agreements make it more critical that a Trans-Pacific Partnership (TPP) trade agreement provide sugar exporters Australia and Canada with greater access to the U.S. market, to offset what it believes will be reduced shipments from Mexico. According to DOC, the two agreements do not alter the United States' obligation under the World Trade Organization (WTO) to provide TRQ countries with access to the U.S. sugar market.

Possible Issues for Congress

The final suspension agreements represent a major course adjustment in U.S.-Mexican trade in sugar—one that closes a chapter on unrestricted trade in favor of a regime of limited access and minimum prices. In broad strokes, the outcome appears to favor the U.S. sugar industry over sugar users. At the same time, the imposition of stiff duties on Mexican sugar is shelved, while the possibility of Mexican retaliation against U.S. exports is likely avoided. The USDA's task of managing the U.S. sugar program at no cost to the government, as Congress directed when it reauthorized the program intact though 2018 crops as part of the 2014 farm bill (P.L. 113-79), is likely to be facilitated. As recently as crop year 2012/2013, large forfeitures of U.S. sugar in the face of low market prices cost the government $259 million.

Congress could consider whether the suspension agreements, in tandem with the existing U.S. sugar program, adequately balance the needs of U.S. sugar producers, users and consumers, and whether this new outcome is consistent with U.S. objectives in current trade talks, including the TPP and the Transatlantic Trade and Investment Partnership (TTIP).

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