

C-201-846
Suspension Agreement
Public Document
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August 26, 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 August 26, 2021

On August 19, 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 Limit² 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 17,527 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 99.5 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 17,527 short tons raw value (STRV) of Additional U.S. Needs Sugar from Mexico of a polarity of less than 99.5 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 On

¹ See USDA’s Letter, “Mexican Sugar CVD Agreement—Request” (August 18, 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” dated March 10, 2021 (March Export Limit Calculation).



April 30, 2021, Commerce increased the Export Limit for the October 1, 2020 through September 30, 2021 period by an amount of Additional U.S. Needs Sugar requested by USDA, *i.e.*, 50,000 STRV of Other Sugar at a polarity of less than 99.2, as produced and measured on a dry basis.⁸

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.⁹ After receiving USDA's August 18, 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 (as calculated pursuant to Section V.B.3 based on the March WASDE, *i.e.*, 737,775 STRV¹⁰).¹¹ On August 26, 2021, Commerce received confirmation from the GOM in this regard.¹²

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.*, 17,527 STRV of Other Sugar. Consistent with Sections V.B.4.c and II.K.b 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.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.¹³

The revised Export Limit, applicable for the October 1, 2020 through September 30, 2021 Export Limit Period, for Sugar from Mexico is 995,447 STRV. Pursuant to Section V.B.4.f of the

⁸ See Memorandum, "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," dated April 30, 2021 (April 2021 Export Limit Increase).

⁹ See Memorandum, "July 2021 Additional U.S. Needs Sugar Consultations," dated August 26, 2021 (July Consultations Memorandum).

¹⁰ See March Export Limit Calculation at the attached worksheet.

¹¹ See July Consultations Memorandum at Attachment 7.

¹² *Id.* at Attachment 8.

¹³ See Section II.K.b of the CVD Amendment. In addition, Section II.K 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."

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.*, 17,527 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 17,527 STRV of Additional U.S. Needs Sugar in the instant increase (at a polarity of less than 99.5 degrees), nor to the previous increase of 50,000 STRV of Additional U.S. Needs Sugar (at a polarity of less than 99.2),¹⁴ 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.¹⁵

¹⁴ See April 2021 Export Limit Increase.

¹⁵ 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
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August 18, 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 17,527 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 99.5 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

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