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February 3, 2022

Hon. Gina M. Raimondo
Secretary of Commerce
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

Hon. Thomas J. Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Re: Sugar from Mexico

Dear Secretaries Raimondo and Vilsack:

It has come to our attention that on January 5, 2022, the Mexican Sugar Chamber (MSC) wrote to Secretary Vilsack, requesting an increase in Mexico's access to the United States, which access is governed by the Suspension Agreements (SA) resolving the antidumping and countervailing duty (AD/CVD) proceedings against sugar from Mexico. The American Sugar Coalition (ASC) wrote to Secretary Raimondo on January 28, 2022, opposing the MSC's request for increased access. We are writing on behalf of the quota holders under the U.S. tariff rate quota (TRQ) on raw sugar to express our opposition to the MSC's request.¹

Mexican sugar having been found to have been illegally dumped and subsidized, the SA were negotiated and subsequently amended to ensure that Mexican sugar would not continue to harm the U.S. sugar industry. Although lacking standing under U.S. AD/CVD laws, the quota holders were also injured by Mexico's illegal conduct, as the volume of our access under the TRQ was diminished and the price received was also depressed.

The volume of Mexico's access is governed by a formula in the CVD SA that basically assigns to Mexico access equal to U.S. consumption requirements less domestic production, TRQ imports and FTA quota imports. This formula has worked in balancing U.S. sugar supply and demand.

But even this formula discriminates against the quota holders because it is the practice of the Department of Commerce (DOC) to use estimated TRQ imports net of shortfall in calculating Mexico's access. Instead, DOC should use the full amount of the bound minimum TRQ of 1,117,195 metric tons (MT) in calculating Mexico's access. Otherwise, use of TRQ imports net of shortfall has

¹ The International Sugar Trade Coalition (ISTC) is an association of sugar industries in countries that hold allocations under the U.S. raw sugar TRQ. ISTC's members account for about half of the TRQ. The members of ISTC are the sugar industries of Barbados, Belize, the Dominican Republic, Eswatini, Fiji, Guyana, Jamaica, Malawi, Mauritius, Panama, the Philippines, and Zimbabwe.

the effect of *de facto* transferring the amount of the shortfall from the quota holders to Mexico in violation of the requirements of GATT Article XIII governing allocation of TRQ access.²

It is important to bear in mind that the SA are not part of USMCA. Accordingly, they are not legally authorized by the WTO provisions on free trade agreements. Rather, the SA are a remedy imposed on Mexico as a sanction against its unfair trade practices. As such, they arise under the U.S. AD/CVD laws, not under the WTO rules governing FTAs.

Equally important, the SA are bilateral agreements between Mexico and the United States. The quota holders are not parties to the SA. Therefore, the SA cannot legally diminish the legitimate rights of the quota holders.³ Any increase in Mexico's access in addition to the amount determined under the SA formula would violate the GATT rights of the quota holders.

Accordingly, we urge USDA and DOC to reject the MSC's request for additional access to the U.S. market. If additional sugar imports are needed, the TRQ quota holders stand ready and willing to supply such additional imports.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Ryberg". The signature is written in a cursive, flowing style with some loops and flourishes.

Paul Ryberg
President

² See May 19, 2019 letter to USDA Under Secretaries Ted McKinney and Bill Northey.

³ Nor have the quota holders acquiesced in the SA's diminution of their access rights under the TRQ. On the contrary, ISTC has repeatedly urged the U.S. Administration to respect the rights of the quota holders and objected to any decrease in their access under the TRQ as the SA were being negotiated, implemented and amended. See ISTC letters to USDA, USTR and/or DOC dated May 5, 2017, May 14, 2017, June 7, 2017, June 20, 2017, and May 19, 2019.