Before the
United States International Trade Commission

Sugar From Mexico
ITC Investigation Nos. 701-TA-513 and 731-TA-1249 (Final)

Post-Hearing Statement of the International Sugar Trade Coalition

During the Commission's September 16, 2015 final injury hearing in this proceeding, misleading and patently false information was presented by witnesses and counsel for the Sweetener Users Association (SUA) concerning the U.S. tariff rate quota (TRQ) on raw sugar,[1] performance of the quota holders under the TRQ, the drop in TRQ imports in 2012-13, and the impact of the foregoing on injury to the domestic sugar industry. This information seems intended to create the misimpression that the quota holders diverted sugar away from the U.S. market in 2012-13, thereby creating a need for additional sugar imports from Mexico. In fact, quite the opposite is true: surging imports of low-priced sugar from Mexico squeezed TRQ sugar out of the market. The International Sugar Trade Coalition (ISTC) feels compelled to file this Post-Hearing Statement to set the record straight.[2]

ISTC is a non-profit, member-supported association of sugar industries in developing countries that export sugar to the United States under the TRQ. The members of ISTC are the sugar industries of: Barbados, Belize, the Dominican Republic, Fiji, Guyana, Jamaica, Malawi, Mauritius, Panama, the Philippines, Swaziland and Zimbabwe. Together, the members of ISTC account for roughly half of the TRQ.

I. The TRQ Holders Have Been a Reliable Source of Supply for the U.S. Market.

The SUA alleged at the September 16, 2015 hearing – without any proof – that the TRQ quota holders are an unreliable source of supply. The facts prove the contrary. The TRQ has historically filled to a level of approximately 90% on average (excluding the aberrational year 2012-13).

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[1] The United States maintains tariff rate quotas on raw sugar, refined sugar and specialty sugar, as well as certain sugar-containing products. The United States also has quotas allowing relatively small additional volumes of sugar imports under free trade agreements with Colombia, the Dominican Republic and Central

[2] ISTC submitted a Post-Hearing Statement following the Commission's April 18, 2014 preliminary injury conference. That Statement addressed some of these same issues and is incorporated herein by reference.

U.S. Raw Sugar TRQs and Imports 2009-2015[3]

Quota Year	Imports	TRQ	% Filled
2009-10	1,441,228 MT	1,570,787 MT	91.8%
2010-11	1,437,562 MT	1,520,892 MT	94.5%
2011-12	1,322,928 MT	1,498,212 MT	88.3%
2012-13	601,754 MT	1,117,195 MT	53.9%
2013-14	902,336 MT	1,117,195 MT	80.8%
2014-15	1,012,085 MT	1,117,195 MT	91.2%

In 2012-13, the fill level dropped significantly below traditional levels, but for unique reasons as explained in detail below. Imports under the 2014-15 TRQ through September 21, 2015, total 1,012,085 MT out of a TRQ of 1,117,195 MT, for a fill rate of 91.2%. With more than one week still remaining in the current quota period, TRQ imports have already exceeded their historical average fill rate of approximately 90%. In short, with the imposition of limits on imports from Mexico under the suspension agreements, imports under the TRQ have returned to traditional levels.

In response to questions from Chairman Broadbent concerning why TRQ imports were low in 2012-13, the SUA's witness Thomas Earley made the completely false statement during the September 16, 2015 hearing that "a lot of quota holders" have stopped producing sugar altogether. A total of 39 countries hold allocations under the TRQ.[4] According to the official records of the International Sugar Organization (ISO), 36 of these 39 countries currently produce sugar.[5] Among the quota holders, only Haiti, St. Kitts & Nevis and Trinidad & Tobago have ceased sugar production. But these three countries each hold the minimum quota allocation under the U.S. TRQ of 7,258 MT. In other words, the three quota holders who have ceased sugar production together represent a mere 1.9% of the bound minimum TRQ – hardly "a lot" of the TRQ.[6]

Mr. Earley also erroneously stated that "almost half of the quota holders" either do not ship at all or do not fill their allocations. On the contrary, as demonstrated by the following table, 29 of the 39 quota holders – 74% - have made significant shipments

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3 USDA Monthly Sugar Import Data, which is available online at USDA's website at: http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1891

4 Originally, 40 countries were assigned allocations under the TRQ, but when Mexico obtained unrestricted access under NAFTA, its TRQ share was eliminated, leaving 39 current quota holders.

5 The ISO's sugar statistics are available online at: www.isosugar.org.

6 The share of the TRQ assigned to these countries is even less than 1.9% when the TRQ is set above the bound minimum level because the minimum allocation remains 7,258 MT when the overall TRQ is increased. Moreover, USDA frequently reassigns the allocations of these countries to other quota holders under TRQ shortfall reallocation.

under the 2014-15 TRQ through September 21, 2015, and most of these have filled their allocations to a level of at least 75-80%.[7] Moreover, eight of the 10 quota holders who have not shipped this year hold only the minimum allocation of 7,258 MT, and the other two have very small allocations: Bolivia 8,587 MT and Taiwan 12,636 MT. Altogether, the 10 countries that have not shipped so far this year account for just 7.0% of the TRQ.

U.S. Imports under the 2014-15 Raw Sugar TRQ Through September 14, 2015[8]

Country	Imports in Metric Tons	Net Allocation % Filled
Argentina	45,107.538	79.8%
Australia	82,659.779	75.7%
Barbados	9,204.832	99.9%
Belize	11,584.000	80.1%
Bolivia	-0-	-0-
Brazil	189,775.076	99.5%
Colombia	25,908.816	82.1%
Congo*	-0-	-0-
Costa Rica	19,630.272	99.5%
Cote d'Ivoire*	-0-	-0-
Dominican Republic	184,662.140	99.6%
Ecuador	11,583.538	80.1%
El Salvador	34,152.430	99.9%
Fiji	11,834.000	100.0%
Gabon*	-0-	-0-
Guatemala	62,273.257	98.7%
Guyana	12,270.323	77.8%
Haiti*	-0-	-0-
Honduras	13,140.554	99.9%
India	8,613.634	81.9%
Jamaica	13,712.277	94.8%
Madagascar*	-0-	-0-
Malawi	3,577.710	34.0%
Mauritius	4,893.495	38.7%
Mozambique	17,094.714	99.9%
Nicaragua	22,113.984	80.1%
Panama	30,488.095	99.8%

7 Fourteen quota holders have filled their 2014-15 allocations to a level of approximately 75-80% because they had shipped all or almost all of their original allocations before USDA reassigned TRQ shortfall from nonperforming countries to those that were able to perform, which resulted in roughly a 20% increase in the original TRQ allocations. It can be difficult to arrange shipment of such small additional volumes if the quota holder has already shipped its full original allocation prior to the shortfall reassignment.

8 U.S. Customs and Border Protection commodity graph report, September 14, 2015: http://www.cbp.gov/sites/default/files/documents/QuotaReport09142015_063507.pdf. The net allocations in the table above reflect the reassignment of TRQ shortfall.

Papua New Guinea*	-0-	-0-
Paraguay*	5,677.571	78.3%
Peru	43,896.859	81.4%
Philippines	63,459.998	100.0%
St. Kitts & Nevis*	-0-	-0-
South Africa	30,244.000	100.0%
Swaziland	21,039.911	99.9%
Taiwan	-0-	-0-
Thailand	17,707.883	96.2%
Trinidad & Tobago*	-0-	-0-
Uruguay*	-0-	-0-
Zimbabwe	15,778.370	99.9%
Totals	**1,012,085.056**	**91.2%**

*Minimum quota holders

Finally, SUA counsel Paul Rosenthal stated at the hearing that he had seen a recent article that the Philippines does not intend to ship sugar to the United States. As demonstrated by the foregoing table, the Philippines has shipped 63,459 MT to the United States this year, making it the fourth largest TRQ supplier in 2014-15.[9] Moreover, the Philippines sugar industry is a member of ISTC, and we are advised that it has every intention of filling its U.S. TRQ allocation in 2015-16.

In short, contrary to the unsubstantiated and patently false statements by the SUA at the September 16 hearing, the quota holders have traditionally been a reliable source of supply to the U.S. market, and they intend to continue to be so in the future.

II. USDA Cut Back TRQ Imports as Surging Imports from Mexico Flooded the U.S. Market and Drove the Price Collapse in 2012-13.

But as noted above, TRQ imports dropped precipitously in 2012-13. What happened in this aberrational year? Mexico flooded the market and drove out TRQ imports.

According to USDA's records, imports from Mexico virtually doubled in 2012-13, increasing by 954,600 MT from 971,859 MT in 2011-12 to 1,926,459 MT. At the same time, imports under the raw TRQ fell by 721,174 MT from 1,322,928 MT in 2011-12 to 601,754 MT in 2012-13.[10] In addition, refined TRQ imports also fell by 117,546 MT from 234,764 MT in 2011-12 to 117,218 MT in 2012-13. Taken together, imports under the raw and refined TRQs fell by 838,720 MT. Ignoring the fact that imports from

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[9] The Philippines suffered reduced production due to drought in 2014-15 and surrendered 78,700 MT of its original allocation to USDA, which reallocated the sugar to other suppliers.

[10] USDA Monthly Sugar Import Data, which is available online at USDA's website at: http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1891

Mexico increased by 133,139 MT more than raw and refined TRQ imports declined, the SUA asserts that imports from Mexico simply replaced declining TRQ imports. Indeed, the SUA makes the unsubstantiated argument in its September 4, 2015 Pre-Hearing Brief that imports from Mexico increased because of a shortage of TRQ sugar in 2012-13. (SUA Pre-Hearing Brief at 1.) But the SUA ignores the role that USDA played in decreasing TRQ imports in 2012-13 in attempting to mitigate the surging imports from Mexico.

The impending oversupply in the U.S. sugar market became evident early in the 2012-13 quota year. USDA's November 2012 World Agricultural Supply and Demand Estimates (WASDE) report, which is a critical source of information USDA uses in managing the U.S. sugar program, projected a serious oversupply in the U.S. market for 2012-13, with a stocks-to-use ratio of 18.7 percent, up from 13.1 percent in the previous month's report and well above the supply-demand equilibrium level, which is generally thought to be between 13.5-15.5 percent.[11] The source of the anticipated oversupply was a projected 50% increase in imports from Mexico, from just over one million short tons in 2011-12 to 1.5 million short tons in 2012-13. The projection, bold as it was, in the event fell far short of the mark.

Far from there being a shortage of TRQ sugar available at that time (as alleged by the SUA), TRQ imports during October-November 2012 totaled 168,189 MT, more than twice the level of imports during the same period in 2011 and about the same as during October-November 2010.[12] The big difference was not low TRQ imports; rather, it was a sharp surge in imports from Mexico.

In response to this serious oversupply situation, USDA, which had no means to restrict the unprecedented flood of sugar from Mexico, and which already regulated domestic producers through marketing allotments, took three regulatory actions to limit TRQ imports:

(1) USDA left the 2012-13 raw TRQ at the bound minimum level of 1,117,195 MT. USDA had increased the 2011-12 TRQ by 381,018 MT above the bound minimum level.

(2) USDA has the authority to reallocate TRQ shortfall to *de facto* increase imports without raising the TRQ. It did so in 2011-12, allowing another 73,446 MT to enter to the U.S. market. But facing a serious oversupply the following year, USDA did not reallocate TRQ shortfall.

(3) USDA set the 2012-13 refined TRQ 117,546 MT lower than the 2011-12 refined TRQ.

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[11] USDA's WASDE reports are in the public record and are available on the internet at USDA's website at: http://www.usda.gov/oce/commodity/ (as awasde.

[12] USDA Monthly Sugar Import Data, which is available online at USDA's website at: http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1891.

Together, these three regulatory actions reduced raw and refined TRQ imports by 572,010 MT, which represents 68% of the drop in imports in 2012-13 compared to 2011-12.

In addition, beginning in December 2012 and continuing throughout the quota year, officials from USDA and the Office of the U.S. Trade Representative (USTR) engaged in a series of communications with quota holders to discuss the market oversupply situation. In particular, meetings were held by Under Secretary of Agriculture Michael Scuse with representatives of various ISTC member quota holders on April 10, 2013, and again on May 7, 2013, during which the Under Secretary requested the quota holders' cooperation in reducing the oversupply. The undersigned attended both meetings and the foregoing is based upon first-hand knowledge. USTR officials also provided written assurances in January 2013 to the quota holders with which Secretary Scuse met that their future access to the U.S. sugar market would not be prejudiced if they did not fill their TRQ allocations for 2012-13.

In response, the quota holders with which Secretary Scuse had met reduced their raw TRQ exports to the United States for the remainder of 2012-13 quota year by 182,001 MT. The lower than normal imports from other quota holders may also have been motivated by similar requests for cooperation by USDA.

The combination of USDA's regulatory actions to restrict TRQ access and requests for cooperation in further decreasing shipments succeeded in reducing TRQ imports by at least 754,011 MT, which accounts for 90% of the drop in TRQ imports in 2012-13 from 2011-12. In short, the drop in TRQ imports in 2012-13 was caused by USDA's regulatory actions in response to the flood of sugar from Mexico and the resulting collapse of the U.S. market price.

III. Only Small Volumes of TRQ Sugar Were Diverted to the EU in 2012-13.

At the September 16, 2015 hearing, the SUA alleged that the TRQ holders diverted sugar from the United States to Europe in 2012-13 to take advantage of relatively high prices in that market. But this assertion ignores the fact that the EU also maintained TRQs on sugar imports, and only a limited number of countries with allocations under the U.S. TRQ also had access to the EU. In 2012-13, only least developed countries (LDCs) had unrestricted access to the EU market under the Everything But Arms (EBA) initiative. But LDCs account for only 5.4% of the U.S. TRQ and an even smaller share of actual imports, as most LDCs shipped to neither the U.S. nor the EU in 2012-13.[13] In addition, the so-called African, Caribbean and Pacific (ACP) countries also had TRQs to export sugar to the EU in 2012-13. Eight ACP countries hold allocations under the both the U.S. and EU TRQs. Together, these eight

[13] The following quota holders are LDCs and account for a total of 5.4% of the U.S. TRQ: Congo, Cote d'Ivoire, Gabon, Madagascar, Malawi, Mozambique, and Papua New Guinea. Of these, only Malawi and Mozambique regularly perform.

ACP countries represent 8.4% of the U.S. TRQ.[14] Together, the LDCs and ACPs account for just 13.8% of the U.S. TRQ, and they certainly could not have caused a 55% drop in TRQ imports in 2012-13.

In addition to the LDCs and the ACPs, the Dominican Republic also had access to the EU under the CARIFORUM Economic Partnership Agreement. In 2012-13, the Dominican Republic exported 70,183 MT to the EU. In response to USDA's request for cooperation, the Dominican Republic reduced its TRQ exports to the United States by 93,473 MT. In other words, the Dominican Republic exported a portion of its reduced U.S. shipments to the EU.

Finally, the EU from time to time has implemented *ad hoc* annual TRQs when it needed additional imports. Brazil has usually been the main supplier under these *ad hoc* TRQs. But Brazil filled 95% of its U.S. TRQ allocation in 2012-13, so it did not divert sugar from the United States to the EU.

In short, the quota holders did not divert significant volumes of sugar from the United States to the EU in 2012-13. For the most part, sugar that was not exported from the quota holders to the United States in 2012-13 simply stayed in the home markets or was sold in nearby regional markets. USDA's regulatory actions – both TRQ reductions and requests for voluntary quota holder cooperation – reduced TRQ imports in 2012-13. But these efforts to maintain market stability were overwhelmed by the surge in imports from Mexico, which drove prices below the forfeiture level and injured both the domestic industry and the quota holders.[15]

IV. Conclusion.

In summary, the TRQ quota holders have played a critical role in supplying sugar needed by the U.S. market for the past 33 years. When supplies in the U.S. market have been tight and the TRQ has been increased, the quota holders have done their best to supply the additional volumes needed by U.S. consumers, often on short notice and with significant practical difficulty. More recently, when surging imports from Mexico have threatened to overwhelm the U.S. market, the TRQ quota holders voluntarily reduced their exports to assist USDA's efforts to maintain market stability. These efforts came at considerable cost to the TRQ quota holders, both in terms of lower volumes of exports and sharply lower prices. The facts prove that surging imports from Mexico squeezed TRQ imports out of the market and drove down the market price.

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[14] The ACP countries with U.S. TRQ allocations are: Barbados, Belize, Fiji, Guyana, Jamaica, Mauritius, Swaziland, and Zimbabwe.

[15] As has been detailed in various filings in this proceeding, USDA also cancelled certificates of quota eligibility (CQEs) under the Colombia FTA, acquired re-export credits, purchased sugar for use as ethanol feedstock, and acquired forfeited domestic stocks, all at considerable expense.

Respectfully submitted,

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September 22, 2015

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September 22, 2015