INTERNATIONAL SUGAR TRADE COALITION, INC.

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September 3, 2014

Hon. Lynn Fischer Fox
Deputy Assistant Secretary for Policy and Negotiations
International Trade Administration
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Hon. Michael Scuse
Under Secretary of Farm and Foreign Agricultural Services
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Hon. John Melle
Assistant U.S. Trade Representative for Western Hemisphere
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Possible Settlement of Mexican Sugar Proceedings

Dear Ms. Fischer Fox and Messrs. Scuse and Melle:

Published reports indicate that Mexico may be planning to offer a settlement proposal to resolve the pending countervailing duty (CVD) and antidumping (AD) cases brought against Mexican sugar exported to the United States. We are writing on behalf of our members to urge that any such settlement take into account the legitimate interests of the quota holders in access to the U.S. sugar market.

The International Sugar Trade Coalition (ISTC) is a non-profit, member-supported association of sugar industries in developing countries that export sugar to the United States under the U.S. tariff rate quota (TRQ) on raw sugar. 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.

The U.S. International Trade Commission (ITC) issued a preliminary determination on May 9, 2014, that sugar imported from Mexico was injuring the domestic sugar industry. Although the quota holders lack legal standing under U.S. trade remedy laws, the quota holders have nonetheless also been injured by Mexico's unfair trade practices. The flood of unfairly traded sugar from Mexico has both reduced the quota holders' access to the U.S. market and slashed the revenue earned on those exports.

Published reports indicate that the settlement likely to be proposed by Mexico would establish a base quota and provide that Mexico would be permitted to supply any additional volumes of sugar required by the U.S. market above that level. But GATT Article XXIV protects the quota holders' right to participate in any such additional access:

> *Members . . . Reaffirming* that the purpose of such agreements [FTAs] should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other Members with such territories; and that in their formation or enlargement the parties to them <u>should to the greatest possible extent avoid creating adverse effect on the trade of other Members</u>.

(Emphasis added.)

In order to redress the injury to the quota holders caused by Mexico's unfair trade practices and to protect their legitimate rights in access to the U.S. market, we urge that any additional access that may be assigned to Mexico beyond the proposed base quota should be subject to the following two conditions:

First, whenever the U.S. market requires additional raw sugar imports beyond the bound minimum TRQ, FTA quotas and the proposed Mexico base quota, the opportunity to supply such imports should first be assigned to the quota holders. Only if and to the extent that the quota holders are not able to supply such additional volumes, should additional access be provided to Mexico.

Second, any such additional access beyond the base quota should be subject to a "net surplus producer" requirement ("net surplus" may be defined as the difference between domestic production and the sum of domestic consumption plus imports). Otherwise, Mexico would be able to arbitrage world market sugar to meet its domestic consumption requirements and thereby free up locally produced sugar for export to the United States. Such arbitrage is inconsistent with the legitimate interests of the quota holders in supplying volumes beyond the bound minimum TRQ that may be required by the U.S. market. Every U.S. FTA subsequent to NAFTA has included a "net surplus producer" requirement precisely to prevent such arbitrage.

We would be happy to meet to discuss these proposals further and/or to provide any additional information you may require. We appreciate your attention to the interests of the quota holders in considering any settlement proposal that may be presented.

Sincerely,

Paul Ryberg