TESTIMONY OF IRWIN ALTSCHULER

Good morning. My name is Irwin Altschuler of Greenberg Traurig, and we represent the Mexican Chamber of Sugar Producers.

We will present two witnesses in addition to myself: Mr. Juan Cortina and Dr. Seth Kaplan. Additionally, Mr. Smith Ramos, Mr. Grace, Mr. Farmer, and Mr. Armero are available to respond to your questions.

I don't want to repeat ASA's testimony, so I will only highlight some key points.

The U.S. sugar market is regulated by the U.S. sugar program, managed by USDA. The suspension agreements take this reality into account, providing the relief sought by petitioners while permitting an adequate supply of sugar at reasonable prices. The agreements can only be understood and evaluated in this context. The agreements accomplish the complete elimination of any possible injurious effect of Mexican imports in 3 ways: 1) by restricting Mexican imports to U.S. needs, after U.S. production and TRQ's from other countries are taken into account. This means that imports of Mexican sugar can never exceed the volume of sugar the U.S. actually needs to balance supply and demand; 2) by establishing floor prices for raw and refined sugar from Mexico well above the U.S. loan forfeiture rates set by the U.S. sugar program; and 3) by providing for vigorous compliance, monitoring and review procedures to prevent circumvention and fraud.

As to the legal questions asked by the Commission, we are in basic agreement with petitioners. Our brief and theirs provide full answers, so I would make only a few points here:

First, the information from the Commission's preliminary investigation is important since it formed the basis for the affirmative preliminary determination. That is the injury that must be completely eliminated by the agreements. As we note in our brief, the information from the preliminary phase is limited in completeness and scope and in some respects we believe inaccurate, owing to the severe time constraints. So we appreciate that the Commission has been open to collecting additional information to assess the effect of the agreements on the injury found in the preliminary determination, as well as in relation to historical U.S. industry performance.

Second, we believe the Commission should focus on 2013, since the Commission focused on "the end of the period of investigation" – that is, 2013. We also believe the Commission should analyze historical patterns of prices and quantities, keeping in mind that industry performance in the years immediately preceding 2013 were anomalously high.

Third, it is clear from the statutory language and scheme that it is the "domestic industry" as a whole that must be the focus of the Commission's analysis. In its preliminary determination, the Commission found one like product, and that should inform the Commission's analysis here.

Fourth, the use of the singular word "effect" does not preclude the Commission from analyzing all relevant effects on both agreements.

Fifth, the statute is clear: the question before the Commission is "whether the injurious effect of imports of the subject merchandise is eliminated completely

by the agreements". Period. Any question of whether there is any injurious effect from the agreements themselves is not properly before the Commission.

Yet, that is precisely the question that Imperial and AmCane are requesting the Commission to consider: a question of injury that is not even allegedly caused by dumped or subsidized imports. They are asking the Commission to consider issues that have nothing to do with the investigations that led to the agreements and address an alleged injurious effect that was not caused by Mexican imports.

The agreements are designed to bring the intended relief sought by the U.S. petitioning industry under U.S. law: less sugar from Mexico at higher prices. As such, they address the crux of the injury allegations made by the U.S. industry: too much Mexican sugar at too low prices. Whether this goal is achieved by the imposition of countervailing and antidumping duties or through suspension agreements does not matter, as long as relief is granted.

For the reasons described in detail in our written submission and those of petitioners, USDA, DOC and Dr. Kaplan, any injury from Mexican imports has been eliminated by the agreements.