

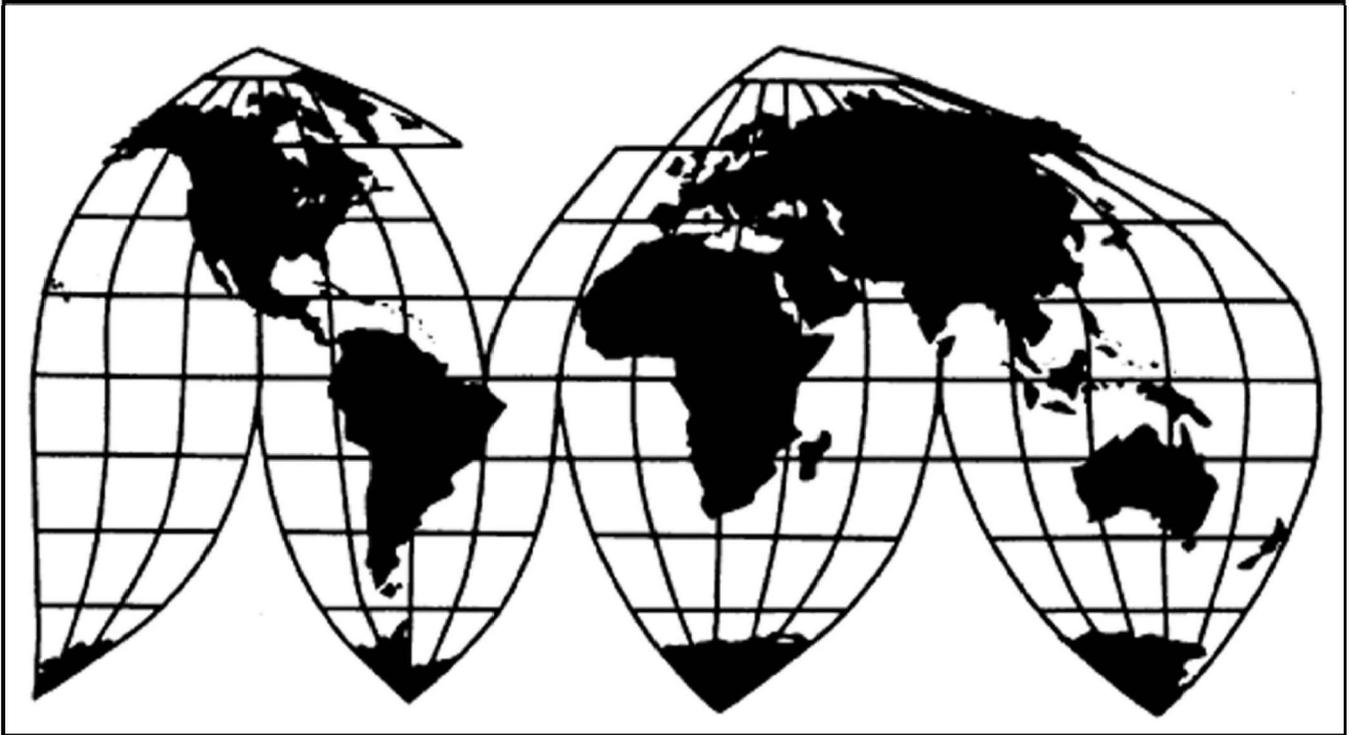
# Sugar from Mexico

Investigation No. 701-TA-513 and 731-TA-1249 (Review)

Publication 5045

April 2020

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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---

### *Staffassigned*

Charlie Cummings, Investigator

Brad Gehrke, Industry Analyst

Pamela Davis, Economist

Courtney McNamara, Attorney

Mary Messer, Supervisory Investigator

Address all communications to  
Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436

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## **UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation Nos. 701-TA-513 and 731-TA-1249 (Review)

Sugar from Mexico

### **DETERMINATIONS**

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that termination of the suspended investigations on imports of sugar from Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

### **BACKGROUND**

The Commission instituted these reviews on November 29, 2019 (84 FR 65841) and determined on March 3, 2020 that it would conduct expedited reviews (85 FR 15224, March 17, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on April 21, 2020.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).



## Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that termination of the suspended antidumping and countervailing duty investigations on sugar from Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. Background

On March 28, 2014, the American Sugar Coalition and its members, which include both domestic producers of sugar and associations of sugar producers (collectively, the “Coalition”),<sup>1</sup> filed antidumping and countervailing duty petitions on sugar from Mexico. Following preliminary affirmative determinations by the Commission<sup>2</sup> and the U.S. Department of Commerce (“Commerce”), Commerce suspended the investigations effective December 19, 2014, based on agreements with the government of Mexico and Mexican producers/exporters of sugar. The agreement between Commerce and the government of Mexico to suspend the countervailing duty investigation restricted the volume of direct or indirect exports of subject merchandise from Mexico to the United States, including restricting refined sugar (defined as sugar with polarity of 99.5 and above) to no more than 53 percent of exports during any export limit period. The agreement between Commerce and producers/exporters of sugar in Mexico to suspend the antidumping duty investigation set minimum reference prices for subject imports.<sup>3</sup>

Subsequently, on January 8, 2015, domestic producers Imperial Sugar Company (“Imperial”) and AmCane Sugar LLC (“AmCane”) filed separate petitions with the Commission requesting reviews of the suspension agreements pursuant to sections 704(h) and 734(h) of the

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<sup>1</sup> The current members of the Coalition are: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc. (“ASR”); Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association. Coalition Response to the Notice of Institution (Dec. 30, 2019) (“Coalition Response”) at 1 n.1; Coalition Response to Questions from the Commission (Jan. 22, 2020) (“Coalition Supplemental Response”).

<sup>2</sup> *Sugar from Mexico*, Inv. Nos. 701-TA-513 and 731-TA-1249 (Preliminary), USITC Pub. 4467 (May 2014) (“*Preliminary Determinations*”).

<sup>3</sup> *Sugar from Mexico: Suspension of the Antidumping Investigation*, 79 Fed. Reg. 78039 (Dep’t Commerce Dec. 29, 2014); *Sugar from Mexico: Suspension of the Countervailing Duty Investigation*, 79 Fed. Reg. 78044 (Dep’t Commerce Dec. 29, 2014). See also Confidential Report (“CR”) at I-1 – I-2; Public Report (“PR”) at I-1 – I-2.

Tariff Act of 1930.<sup>4</sup> As a result of these reviews, on March 19, 2015, the Commission determined that the agreements eliminated completely the injurious effect of subject imports.<sup>5</sup> Consequently, the suspension agreements remained in effect.

On January 16, 2015, Imperial and AmCane submitted timely requests with Commerce to continue the final antidumping and countervailing duty investigations on sugar from Mexico. Commerce resumed the investigations on May 4, 2015, at which point it established new deadlines pursuant to the statute.<sup>6</sup> In September 2015, Commerce made affirmative dumping and subsidy determinations in the continued final investigations.<sup>7</sup> In November 2015, the Commission determined that an industry in the United States was materially injured by reason of imports of dumped and subsidized sugar from Mexico.<sup>8</sup> As a result of the affirmative final determinations in the continued investigations, the suspension agreements remained in effect.

Effective June 30, 2017, Commerce amended the suspension agreements to redefine refined and other sugar based on polarity.<sup>9</sup> Pursuant to actions brought by CSC Sugar LLC (“CSC”), the U.S. Court of International Trade vacated the amendments to the suspension agreements on October 18, 2019.<sup>10</sup> Commerce subsequently issued new amendments to the suspension agreements in January 2020.<sup>11</sup>

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<sup>4</sup> 19 U.S.C. §§ 1671c(h), 1673c(h).

<sup>5</sup> *Sugar from Mexico*, Inv. Nos. 704-TA-1 and 734-TA-1 (Review), USITC Pub. 4523 (April 2015). Imperial and AmCane appealed the Commission’s review determinations to the U.S. Court of International Trade, which affirmed the Commission’s determinations. *Imperial Sugar Co. v. United States*, 181 F. Supp. 3d 1284 (Ct. Int’l Trade 2016).

<sup>6</sup> *Sugar from Mexico: Continuation of Antidumping and Countervailing Duty Investigations*, 80 Fed. Reg. 25278 (Dep’t Commerce May 4, 2015).

<sup>7</sup> *Sugar from Mexico: Final Affirmative Countervailing Duty Determination*, 80 Fed. Reg. 57337 (Dep’t Commerce Sept. 23, 2015); *Sugar from Mexico: Final Determination of Sales of Less Than Fair Value*, 80 Fed. Reg. 57341 (Dep’t Commerce Sept. 23, 2015).

<sup>8</sup> *Sugar from Mexico*, Inv. Nos. 701-TA-513 and 731-TA-1249 (Final), USITC Pub. 4577 (Nov. 2015) (“*Original Determinations*”).

<sup>9</sup> *Sugar From Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 82 Fed. Reg. 31942 (Dep’t Commerce July 11, 2017); *Sugar From Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 82 Fed. Reg. 31945 (Dep’t Commerce July 11, 2017).

<sup>10</sup> *CSC Sugar LLC v. United States*, Court No. 17-20214, Slip Op. 19-131 (Ct. Int’l Trade Oct. 18, 2019) (Countervailing Duty Agreement); *CSC Sugar LLC v. United States*, Court No. 17-20215, Slip Op. 19-132 (Ct. Int’l Trade Oct. 18, 2019) (Antidumping Duty Agreement). Specifically, the court vacated the agreements because it found that Commerce did not comply with the recordkeeping requirements of 19 U.S.C. § 1677f(a)(3). See also *Sugar from Mexico: Notice of Termination of Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 84 Fed. Reg. 67711 (Dep’t Commerce Dec.

*Current Reviews:* The Commission instituted these five-year reviews on November 29, 2019.<sup>12</sup> The Coalition and Imperial (collectively “domestic interested parties”) each filed responses to the notice of institution.<sup>13</sup> No other parties participated in these reviews.<sup>14</sup>

On March 3, 2020, the Commission determined that the domestic interested party group response to its notice of institution was adequate, but the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews and consequently decided to expedite the reviews.<sup>15</sup>

**Data/Response Coverage.** U.S. industry data are based on the responses to the notice of institution of nine domestic interested parties that are believed to account for the vast majority of U.S. production of sugar for crop year (“CY”) 2017/18.<sup>16</sup> U.S. import data and related information are based on Commerce’s official import statistics and the responses of two U.S. importers of sugar that accounted for \*\*\* percent of subject imports for CY 2017/18.<sup>17</sup> Foreign industry data and related information are based on information from the domestic interested parties and questionnaire responses from the original investigations and prior

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11, 2019); *Sugar from Mexico: Notice of Termination of Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 84 Fed. Reg. 67718 (Dep’t Commerce Dec. 11, 2019).

<sup>11</sup> *Sugar from Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 85 Fed. Reg. 3613 (Dep’t Commerce Jan. 22, 2020); *Sugar From Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 Fed. Reg. 3620 (Dep’t Commerce July 11, 2017). These amendments are substantially similar to the earlier amendments.

<sup>12</sup> *Sugar from Mexico; Institution of Five-Year Reviews*, 84 Fed. Reg. 65841 (Int’l Trade Comm’n Nov. 29, 2019).

<sup>13</sup> See Coalition Response; Coalition Supplemental Response; Imperial Response to the Notice of Institution (Dec. 30, 2019) (“Imperial Response”); Imperial Response to Questions from the Commission (Jan. 22, 2020) (“Imperial Supplemental Response”). The Coalition also filed Final Comments on April 6, 2020. Coalition Final Comments, EDIS Doc. 707079. Final Comments due on April 6, 2020, were to be limited to Commerce’s final results and not to exceed five pages. See *Sugar From Mexico; Scheduling of Expedited Five-Year Reviews*, 85 Fed. Reg. 15224 (Int’l Trade Comm’n Mar. 17, 2020); see also April 2, 2020 and April 3, 2020 emails from Charlie Cummings, EDIS Doc. 707625. Because the Coalition’s April 6, 2020 submission was not limited to Commerce’s final results and did not conform to the instructions, we have not considered that submission in these reviews.

<sup>14</sup> As discussed further below, ASR (a member of the Coalition) and Imperial also reported in their responses to the notice of institution imports of subject merchandise. Imperial and the Coalition each support continuation of the suspension agreements. It appears that Imperial’s imports are through its subsidiary, Imperial Savannah LP. Imperial Response at 1; Imperial Supplemental Response at 1.

<sup>15</sup> *Sugar From Mexico; Scheduling of Expedited Five-Year Reviews*, 85 Fed. Reg. 15224 (Int’l Trade Comm’n Mar. 17, 2020).

<sup>16</sup> CR/PR at Table I-1. One other known U.S. producer, CSC, did not submit a response to the notice of institution.

<sup>17</sup> CR/PR at Tables I-1 & I-7. These two importers are Imperial and ASR. Imperial Response at 2-5; Coalition Response at 4-30.

reviews, as well as publicly available information gathered by staff.<sup>18</sup> Two U.S. purchasers of sugar responded to the Commission's adequacy phase questionnaire.<sup>19</sup>

## II. Domestic Like Product and Industry

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."<sup>20</sup> The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."<sup>21</sup> The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>22</sup>

Commerce has defined the imported merchandise within the scope of the suspension agreements as follows:

The product covered by this Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. The chemical sucrose gives sugar its essential character. Sucrose is a nonreducing disaccharide composed of glucose and fructose linked by a glycosidic bond via their anomeric carbons. The molecular formula for sucrose is C<sub>12</sub>H<sub>22</sub>O<sub>11</sub>; the International Union of Pure and Applied Chemistry (IUPAC) International Chemical Identifier (InChI) for sucrose is 1S/C12H22O11/c13-1-4-6(16)8(18)9(19)11(21-4)23-12(3-15)10(20)7(17)5(2-14)22-12/h4-11,13-20H,1-3H2/t4-,5-,6-,7-,8+,9-,10+,11-,12+/m1/s1; the InChI

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<sup>18</sup> See generally CR/PR at I-34 – I-36.

<sup>19</sup> CR/PR at D-3.

<sup>20</sup> 19 U.S.C. § 1677(4)(A).

<sup>21</sup> 19 U.S.C. § 1677(10); see, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>22</sup> See, e.g., *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

Key for sucrose is CZMRCDWAGMRECN-UGDNZRGBSA-N; the U.S. National Institutes of Health PubChem Compound Identifier (CID) for sucrose is 5988; and the Chemical Abstracts Service (CAS) Number of sucrose is 57-50-1.

Sugar described in the previous paragraph includes products of all polarimeter readings described in various forms, such as raw sugar, estandar or standard sugar, high polarity or semi-refined sugar, special white sugar, refined sugar, brown sugar, edible molasses, desugaring molasses, organic raw sugar, and organic refined sugar. Other sugar products, such as powdered sugar, colored sugar, flavored sugar, and liquids and syrups that contain 95 percent or more sugar by dry weight are also within the scope of this Agreement. Merchandise covered by this investigation is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5025, 1701.99.5050, and 1702.90.4000.

The scope of the Agreements does not include sugar imported under the Refined Sugar Re-Export Programs of the U.S. Department of Agriculture; sugar products produced in Mexico that contain 95 percent or more sugar by dry weight that originated outside of Mexico; inedible molasses (other than inedible desugaring molasses noted above); beverages; candy; certain specialty sugars; and processed food products that contain sugar (e.g., cereals). Specialty sugars excluded from the scope of this investigation are limited to the following: caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations.<sup>23</sup>

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<sup>23</sup> *Sugar from Mexico: Final Results of the Expedited First Sunset Review of the Agreement Suspending the Antidumping Duty Investigation*, 85 Fed. Reg. 19438 (Dep't Commerce April 7, 2020); *Sugar from Mexico: Final Results of the Expedited First Sunset Review of the Agreement Suspending the Countervailing Duty Investigation*; 85 Fed. Reg. 19454 (Dep't Commerce April 7, 2020). Substantively,

The sugar covered by the suspension agreements is chemically classified as sucrose, a naturally occurring carbohydrate.<sup>24</sup> Among the covered products are “raw” sugar (sugar with a sucrose content by weight in a dry state that corresponds to a polarimeter reading of less than 99.5 degrees) and “estandar,” or standard sugar, which is sometimes referred to as “high polarity” or “semi refined” sugar (sugar with a sucrose content by weight in a dry state that corresponds to a polarimeter reading of 99.2 to 99.6 degrees).<sup>25</sup> Raw cane sugar is used exclusively as a raw material input in the production of refined sugar.<sup>26</sup> Estandar can be used either as a raw material input in the production of refined sugar or as an input in the production of certain food and beverage products.<sup>27</sup>

Also included in the scope of the agreements are “refined” sugar with a sucrose content by weight in a dry state that corresponds to a polarimeter reading of at least 99.9 degrees; brown sugar; liquid sugar (sugar dissolved in water); organic raw sugar; and organic refined sugar.<sup>28</sup> These sugar products are used as a caloric sweetening agent in food and beverages, including bakery products, cereals, confections, sauces, cured meats, dairy products, and ice cream.<sup>29</sup> Inedible molasses, certain “specialty” sugars (*e.g.*, rock candy, fondant, and sugar decorations), and processed food products that contain sugar (*e.g.*, beverages, candy, and cereals) are not within the scope of the agreements.<sup>30</sup>

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the scope in the final results is the same as the scope definitions in the original agreements as well as the most recent amendments to the suspension agreements. Commerce reordered some of the language in the final results, removed one HTS category, and omitted the numbering from the final paragraph. *Compare Sugar from Mexico: Suspension of Antidumping Investigation*, 79 Fed. Reg. 78039, 7804-41 (Dep’t Commerce Dec. 29, 2014); *Sugar from Mexico: Suspension of Countervailing Duty Investigation*, 79 Fed. Reg. 78044, 78046 (Dep’t Commerce Dec. 29, 2014); *Sugar from Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 85 Fed. Reg. 3613 (Dep’t Commerce Jan. 22, 2020); *Sugar From Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 Fed. Reg. 3620 (Dep’t Commerce July 11, 2017).

<sup>24</sup> CR/PR at I-18.

<sup>25</sup> CR/PR at I-18.

<sup>26</sup> CR/PR at I-18.

<sup>27</sup> *Original Determinations*, USITC Pub. 4577 at 7.

<sup>28</sup> CR/PR at I-19.

<sup>29</sup> CR/PR at I-20.

<sup>30</sup> CR/PR at I-18.

**a. The Original Investigations**

In the original investigations, the Commission defined a single domestic like product, coextensive with the scope.<sup>31</sup> In the preliminary phase of the investigations, the Commission analyzed whether it should define separate like products corresponding to raw and refined sugar or to refined cane sugar and refined beet sugar, and whether the domestic like product should be defined more broadly than the scope to include high fructose corn syrup (“HFCS”).<sup>32</sup> The Commission found that the record evidence pertaining to its semi-finished product analysis supported the inclusion of raw and refined sugar within the same domestic like product.<sup>33</sup> The Commission next determined that refined cane sugar and refined beet sugar should not be defined as separate like products.<sup>34</sup> Finally, the Commission concluded that the record in the preliminary phase of the investigations indicated that there were more differences than similarities between sugar and HFCS, demonstrating that a clear dividing line existed between the two products.<sup>35</sup> Thus, the Commission defined a single domestic like product, coextensive with the scope, in the preliminary phase of the investigations, and maintained that definition in the final phase.<sup>36</sup>

**b. The Current Reviews**

In these reviews, the Coalition and Imperial both indicated that they agree with the domestic like product definition that the Commission adopted in the original investigations.<sup>37</sup> The record contains no new information suggesting that the characteristics and uses of domestically produced sugar have changed since the original investigations.<sup>38</sup> We therefore again define a single domestic like product consisting of all sugar corresponding to the scope.

**B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output

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<sup>31</sup> *Original Determinations*, USITC Pub. 4577 at 7-9.

<sup>32</sup> *Preliminary Determinations*, USITC Pub. 4467 at 8-14.

<sup>33</sup> *Preliminary Determinations*, USITC Pub. 4467 at 8-10.

<sup>34</sup> *Preliminary Determinations*, USITC Pub. 4467 at 10-11.

<sup>35</sup> *Preliminary Determinations*, USITC Pub. 4467 at 12-14.

<sup>36</sup> *Original Determinations*, USITC Pub. 4577 at 8-9. It found that the record did not contain any new information pertinent to the issue of domestic like product, nor did any party seek a different definition. *Id.*

<sup>37</sup> Coalition Response at 38-39; Imperial Response at 19.

<sup>38</sup> See generally CR/PR at I-18 – I-22.

of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>39</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations, the Commission addressed multiple issues related to the definition of the domestic industry, which are each summarized below. In these reviews, the Coalition and Imperial both indicated that they agree with the definition of the domestic industry the Commission adopted in the original investigations.<sup>40</sup>

### **1. Sufficient Production-Related Activities**

In deciding whether a firm qualifies as a domestic producer of the domestic like product, the Commission generally analyzes the overall nature of a firm’s U.S. production-related activities, and production-related activity at minimum levels may be insufficient to constitute domestic production.<sup>41</sup>

In the original investigations, the Commission addressed whether certain producers known as “melt houses” engaged in sufficient production-related activities to be included in the domestic industry.<sup>42</sup> The Commission found that one “melt house,”<sup>43</sup> CSC, engaged in sufficient activities to be considered a domestic producer, but that another, Archer Daniels Midland Company, did not.<sup>44</sup>

The record in these reviews does not contain any new information concerning the operation of “melt houses.” In light of this and the lack of any contrary argument, we adopt the

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<sup>39</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>40</sup> Coalition Response at 38-39; Imperial Response at 19.

<sup>41</sup> The Commission generally considers six factors: (1) source and extent of the firm’s capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product. No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. *Crystalline Silicon Photovoltaic Cells and Modules from China*, Inv. Nos. 701-TA-481 and 731-TA-1190 (Final), USITC Pub. 4360 at 12-13 (Nov. 2012).

<sup>42</sup> *Original Determinations*, USITC Pub. 4577 at 9-13.

<sup>43</sup> “Melt houses” are firms that produce liquid sugar by adding water to semi-refined or refined sugar. *Original Determinations*, USITC Pub. 4577 at 9-10.

<sup>44</sup> *Original Determinations*, USITC Pub. 4577 at 9-10.

same findings as to production-related activities as the Commission did in the original investigations.<sup>45</sup>

## 2. Grower/Processor Issues

In cases involving processed agricultural products, section 771(4)(E) of the Tariff Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the processed agricultural product if:

- (a) the processed agricultural product is produced from the raw product through a single continuous line of production,<sup>46</sup> and
- (b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon the relevant economic factors.<sup>47</sup>

In the original investigations, the Commission found that because the requirements of the statutory grower/processor provision were satisfied, sugar cane farmers and sugar beet growers were part of the domestic industry.<sup>48</sup>

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<sup>45</sup> The finding concerning production-related activities has no practical effect on the data that we analyze in these reviews, as neither CSC nor Archer Daniels Midland responded to the notice of institution.

<sup>46</sup> The statute provides that the processed product shall be considered to be processed from the raw product in a single, continuous line of production if:

- (a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and
- (b) the processed agricultural product is produced substantially or completely from the raw product. 19 U.S.C. § 1677(4)(E)(ii).

<sup>47</sup> In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

- (a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and
- (b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product. 19 U.S.C. § 1677(4)(E)(iii).

<sup>48</sup> *Original Determinations*, USITC Pub. 4577 at 10-11.

The record in these reviews does not contain any new information concerning the nature of the relationship between growers and processors. In light of this and the lack of any contrary argument, we continue to find that growers are part of the domestic industry.

### 3. Related Parties

We must also determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>49</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>50</sup>

In the original investigations, the Commission found that appropriate circumstances did not exist to exclude any domestic producer pursuant to the related parties provision. In particular, it found that those domestic producers that imported subject merchandise did so primarily for processing into refined sugar in their domestic production facilities. It also found that domestic cane refiners as a whole needed to import raw or semi-refined cane sugar as an input for their domestic production of refined sugar because there was an insufficient volume of domestic raw sugar to supply their refineries, and therefore the fact that those refiners imported inputs from Mexico did not significantly detract from their primary interest in domestic production, notwithstanding high ratios of subject imports to domestic production.<sup>51</sup>

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<sup>49</sup> See *Torrington Co v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>50</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);
- (3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;
- (4) the ratio of import shipments to U.S. production for the imported product; and
- (5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>51</sup> *Original Determinations*, USITC Pub. 4577 at 12-13.

In these reviews, Imperial and ASR are each subject to exclusion pursuant to the related parties provision as each firm reported importing subject merchandise during CY 2017/18,<sup>52</sup> and ASR is also related to an exporter of subject merchandise.<sup>53</sup> On the limited record in these reviews, it appears that these producers are importing subject merchandise for purposes of their domestic production activities, as they did in the original investigations.<sup>54</sup> Therefore, for the reasons set forth in the original determinations, and in the absence of contrary arguments, we find that appropriate circumstances do not exist to exclude any related party from the domestic industry.<sup>55</sup>

In sum, we define the domestic industry as all U.S. producers of sugar within the scope of the investigations, including cane farmers and beet growers.

### **III. Termination of the Suspended Antidumping and Countervailing Duty Investigations Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

#### **A. Legal Standards**

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order, or termination of a suspended investigation, “would be likely to lead

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<sup>52</sup> See CR/PR at I-29. As discussed above, it appears that Imperial’s imports are through its subsidiary, Imperial Savannah LP. Imperial Response at 1; Imperial Supplemental Response at 1.

<sup>53</sup> Coalition Response at 38 n.122; Coalition Supplemental Response at 3. There are several other producers of the domestic like product that also imported subject merchandise during the period of review. The Coalition indicated that members of the United States Beet Sugar Association are importers of subject merchandise but did not provide any additional information. Coalition Response at 38 n.122; Coalition Supplemental Response at 3-5. The Coalition also identified CSC Sugar as an importer of subject merchandise. Coalition Response at 38. CSC did not respond to the notice of institution.

Given the lack of information in the record about these producers’ current operations, we do not engage in a further related parties analysis concerning them. We observe that even assuming *arguendo* that appropriate circumstances existed to exclude these firms from the domestic industry, the record contains no data specific to these firms that we could exclude.

<sup>54</sup> Coalition Response at 31; Coalition Supplemental Response at 3; Imperial Response at 1, 6-7, 11-13; CR/PR at Table I-5.

<sup>55</sup> For CY 2017/18, the ratio of subject imports to domestic production was \*\*\* percent for Imperial and \*\*\* percent for ASR. CR/PR at I-29.

to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>56</sup> The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>57</sup> Thus, the likelihood standard is prospective in nature.<sup>58</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>59</sup>

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>60</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>61</sup>

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<sup>56</sup> 19 U.S.C. § 1675a(a).

<sup>57</sup> SAA, H.R. Rep. 103-316, vol. I at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>58</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>59</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>60</sup> 19 U.S.C. § 1675a(a)(5).

<sup>61</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>62</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>63</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>64</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>65</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>66</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as

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only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>62</sup> 19 U.S.C. § 1675a(a)(1).

<sup>63</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings. *Sugar from Mexico: Final Results of the Expedited First Sunset Review of the Agreement Suspending the Antidumping Duty Investigation*, 85 Fed. Reg. 19438 (Dep’t Commerce April 7, 2020) and accompanying Issues and Decisions Memorandum; *Sugar from Mexico*, 85 Fed. Reg. 19454 (Dep’t Commerce April 7, 2020) and accompanying Issues and Decisions Memorandum.

<sup>64</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>65</sup> 19 U.S.C. § 1675a(a)(2).

<sup>66</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>67</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>68</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders or suspended investigations under review and whether the industry is vulnerable to material injury upon revocation.<sup>69</sup>

No respondent interested party that supported termination of the suspended investigations participated in these expedited reviews. The record, therefore, contains limited new information with respect to the sugar industry in Mexico. There also is limited information regarding the sugar market in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations as well as the limited new information on the record in these five-year reviews.

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<sup>67</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>68</sup> 19 U.S.C. § 1675a(a)(4).

<sup>69</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, or a suspended investigation is terminated, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>70</sup> The following conditions of competition inform our determinations.

### **1. Demand Conditions**

*Original Investigations.* In the original investigations, the Commission observed that apparent U.S. consumption of sugar initially increased from CY 2011/12 to CY 2012/13 and remained at the same level in CY 2013/14. It further observed that most market participants reported that U.S. demand for sugar increased since October 2011, ascribing this to population growth and consumer substitution away from products using HFCS. In addition, U.S. Department of Agriculture (“USDA”) data indicated that U.S. shipments of sugar for use in food and beverages increased from CY 2011/12 to CY 2013/14.<sup>71</sup>

*Current reviews.* In the current reviews, apparent U.S. consumption was higher in CY 2017/18, at \*\*\* short tons raw value (“STRV”), than it was in CY 2013/14, \*\*\* STRV.<sup>72</sup> Imperial argues that, after years of growing demand for sugar in the U.S. market, evolving trends in consumer diets have flattened demand recently.<sup>73</sup> Indeed, the record shows that consumers are increasingly being advised to limit intake of added sugar. In addition, sugar market analysts have indicated that demand may be shifting away from beet sugar toward cane sugar, although the two products are chemically identical, as some U.S. food manufacturers attempt to move away from ingredients containing genetically modified organisms (“GMOs”).<sup>74</sup>

### **2. Supply Conditions**

*Original investigations.* In the original investigations, the Commission found that the domestic industry’s market share rose overall during the period of investigation, increasing from \*\*\* percent CY in 2011/12 to \*\*\* percent in CY 2012/13 before decreasing to \*\*\* percent in CY 2013/14. Subject imports as a share of apparent U.S. consumption rose overall during the

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<sup>70</sup> 19 U.S.C. § 1675a(a)(4).

<sup>71</sup> *Original Determinations*, USITC Pub. 4577 at 19-20.

<sup>72</sup> CR/PR at Table I-8.

<sup>73</sup> Imperial Response at 16-17.

<sup>74</sup> CR/PR at I-27.

POI, increasing from \*\*\* percent in CY 2011/12 to \*\*\* percent in CY 2012/13 before declining to \*\*\* percent in CY 2013/14. In contrast, nonsubject imports as a share of apparent U.S. consumption decreased overall during the period of investigation, declining from \*\*\* percent in CY 2011/12 to \*\*\* percent in CY 2012/13 before increasing to \*\*\* percent in CY 2013/14.<sup>75</sup>

*Current reviews.* In these reviews, the domestic industry continues to be the largest source of supply to the U.S. market, accounting for \*\*\* percent of apparent U.S. consumption in CY 2017/18.<sup>76</sup> During that time, subject imports accounted for \*\*\* percent of apparent U.S. consumption, which was less than in any year during the original period of investigation, and nonsubject imports accounted for \*\*\* percent.<sup>77</sup>

Since 2015, there have been a number of developments in the U.S. sugar industry; most notably, sugar production has ceased in Hawaii.<sup>78</sup> In addition, domestic producers and one of the responding purchasers reported that U.S. sugar production overall has fallen and is projected to continue to decline, as U.S. sugar beet growers have faced severe weather conditions.<sup>79</sup> As a result, the Coalition asserts that USDA has forecast that sugar beet production in 2019-20 will be at the lowest level in a decade.<sup>80</sup>

### **3. Substitutability**

*Original investigations.* In the original investigations, the Commission found that there was generally a moderate-to-high degree of substitutability between domestically produced sugar and subject imports. Furthermore, price was an important factor in purchasing decisions in the U.S. sugar market, although non-price factors were important as well.<sup>81</sup>

*Current reviews.* In the current reviews, there is no new information suggesting changes in these conditions of competition to warrant modification of our prior findings concerning substitutability or the importance of price in purchasing decisions. Accordingly, we again find that there is a moderate-to-high degree of substitutability between sugar from Mexico and the domestic like product, and that price continues to be an important factor in purchasing decisions.

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<sup>75</sup> *Original Determinations*, USITC Pub. 4577 at 20-21; Confidential Original Determinations, EDIS Doc. 701222 at 29-30.

<sup>76</sup> CR/PR at Table I-8.

<sup>77</sup> CR/PR at Table I-8.

<sup>78</sup> CR/PR at I-24 & Table I-5. *See also* Coalition Response at 28.

<sup>79</sup> Coalition Response at 28-29; Imperial Response at 16-17; CR/PR at D-4.

<sup>80</sup> Coalition Response at 29.

<sup>81</sup> *Original Determinations*, USITC Pub. 4577 at 22-23.

#### 4. Other Conditions

*Original Investigations.* In its original determinations, the Commission found several conditions of competition distinctive to the U.S. sugar market relevant to its analysis. In particular, the Commission observed that the U.S. government regulated the U.S. sugar market using a variety of policy tools collectively known as the U.S. Sugar Program pursuant to the Agriculture Act of 2014 (the “2014 Farm Bill”), which essentially extended most elements of the Food, Conservation, and Energy Act of 2008 (the “2008 Farm Bill”) through the 2018 crop year.<sup>82</sup> The Sugar Program served to control the supply of sugar in the U.S. market from domestic<sup>83</sup> and nonsubject import sources,<sup>84</sup> but not from Mexico. Rather, under the North American Free Trade Agreement (“NAFTA”), imports of sugar from Mexico had enjoyed unlimited access to the U.S. market since January 1, 2008. The Commission also observed that USDA, with the Office of the U.S. Trade Representative (“USTR”), regulated imports of sugar from sources other than Mexico using tariff rate quotas (“TRQs”).<sup>85</sup>

The Commission also discussed other relevant conditions of competition in the U.S. market. In particular, it found that raw materials accounted for a large majority of the cost of production for both sugar cane milling and sugar beet processing. The cost of raw materials for

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<sup>82</sup> *Original Determinations*, USITC Pub. 4577 at 17-19.

<sup>83</sup> The Commission observed that USDA regulated the quantity of sugar supplied by domestic producers to the U.S. market by assigning marketing allotments to sugar beet processors and to sugar cane millers, and it also provided loans to sugar cane millers and sugar beet processors through the Commodity Credit Corporation (“CCC”). As the Commission explained, sugar cane millers and sugar beet processors could forfeit the sugar pledged as collateral for loans to the CCC in lieu of repaying the loans and would generally do so when market prices fell below the applicable sugar loan rates, plus interest and costs. The CCC could not sell forfeited sugar into the U.S. market for human consumption but was required to dispose of it through re-export program credit swaps and sales of sugar to ethanol production or for other non-food uses. As the Commission explained, the Secretary of Agriculture was required to operate the U.S. Sugar Program at no net cost to the U.S. government by avoiding, to the maximum extent possible, any forfeiture of sugar to the CCC. To accomplish this goal, the USDA used marketing allotments and the regulation of nonsubject imports as well as two other programs. Under the “payment-in-kind” (“PIK”) program, the USDA allowed processors and growers to bid on raw cane sugar or refined beet sugar held by the CCC in exchange for reducing their own production or planting/harvesting of a specified acreage, as the case may be. Under the Feedstock Flexibility Program, the USDA was required to sell surplus sugar stocks, including forfeited sugar, to ethanol producers, and could also purchase refined sugar from domestic producers for sale to ethanol producers. The Commission noted that, during the period of investigation, the USDA removed domestically produced sugar from the U.S. market for human consumption for the first time since 2004. *Original Determinations*, USITC Pub. 4577 at 17-19.

<sup>84</sup> *Original Determinations*, USITC Pub. 4577 at 19.

<sup>85</sup> *Original Determinations*, USITC Pub. 4577 at 19.

millers (*i.e.*, sugar cane) and processors and refiners (*i.e.*, sugar beets and raw cane sugar, respectively) as a percentage of total cost of goods sold (“COGS”) fell during the period of investigation. The Commission also found relevant to its analysis the prevalence of short- and long-term contracts in the U.S. sugar market as well as the use of reference data in setting pricing.<sup>86</sup>

*Current reviews.* The U.S. Sugar Program provisions discussed in the original determinations remained in effect through 2018, and the Agricultural Improvement Act of 2018 extended these provisions through CY 2023.<sup>87</sup>

The Coalition and Imperial assert that, subsequent to the original final determinations, the 2014 Suspension Agreements required amending to eliminate injury to the domestic industry. In particular, they contend that the polarity levels in the 2014 Suspension Agreements’ definitions of “Refined” and “Other” sugar permitted semi-refined sugar, which could be used as a substitute for refined sugar, to be sold to end users at the lower reference price for “Other” sugar. This resulted in declining prices for “Refined” sugar, but rising prices for “Other” sugar, to the point that the market price for raw sugar was at times higher than the price for fully refined sugar. In addition, they contend that the 2014 Suspension Agreements permitted excessive quantities of refined sugar to be imported into the U.S. market, which put further pressure on refined sugar prices, while also causing a shortage of raw sugar, which was a needed raw material for U.S. refiners.<sup>88</sup>

The Coalition and Imperial contend that, as a result of these problems, Commerce negotiated amendments to the original suspension agreements in 2017, making several changes to the 2014 Suspension Agreements.<sup>89</sup> Specifically, the 2017 Amendments changed the level of polarity that defined “Refined” sugar to be sold to end users and “Other” sugar to be sold to refiners, to ensure that imports of high-polarity sugar that “might compete with U.S.-produced refined sugar, are subject to the higher reference price for Refined Sugar,” so that that “domestic prices of refined sugar are neither undercut nor suppressed,” by imports from Mexico. Commerce also adjusted the quantity of “Refined” sugar permitted to enter the United States, explaining that the 2017 Amendments would ensure “that an adequate supply of Sugar

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<sup>86</sup> *Original Determinations*, USITC Pub. 4577 at 23-24.

<sup>87</sup> Coalition Response at 35.

<sup>88</sup> Coalition Response at 20-21; Imperial Response at 15-16.

<sup>89</sup> Coalition Response at 22-25; Imperial Response at 16.

from Mexico for further processing reaches U.S. cane refiners.”<sup>90</sup> According to the Coalition and Imperial, these 2017 Amendments consequently remedied several of the problems caused by the 2014 Suspension Agreements.<sup>91</sup> The Coalition further contends that supply changes in the U.S. market related to the recent decisions by the U.S. Court of International Trade in the cases brought by CSC have disrupted the U.S. market and led to declines in the domestic industry’s condition.<sup>92</sup>

### **C. Likely Volume of Subject Imports**

#### **1. The Original Investigations**

In the original investigations, the Commission found that the volume and increase in volume of subject imports were significant both absolutely and relative to apparent U.S. consumption. Subject import volume increased from 1.1 million STRV in CY 2011/12 to 2.1 million STRV in CY 2012/13 before declining to 2.0 million STRV in CY 2013/14, a level 89.9 percent higher than in CY 2011/12. As a share of apparent U.S. consumption, subject imports increased from \*\*\* percent in CY 2011/12 to \*\*\* percent in CY 2012/13 before decreasing to \*\*\* percent in CY 2013/14.<sup>93</sup> The Commission observed that in CY 2012/13, as subject imports increased sharply, USDA undertook regulatory actions to limit TRQ imports and request that certain TRQ quota holders voluntarily reduce their imports.<sup>94</sup>

#### **2. The Current Reviews**

During the period of review, subject imports maintained their presence in the U.S. market, at fluctuating and generally declining levels. The quantity of subject imports ranged from a high of 1.6 million STRV in 2015 to a low of 1.1 million STRV in 2017.<sup>95</sup> There were 1.2

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<sup>90</sup> Coalition Response at 21-22 & Exhibit 5 (Memorandum from P. Lee Smith, Deputy Assistant Secretary for Policy & Negotiations Enforcement and Compliance to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, U.S. Department of Commerce, International Trade Administration, Inv. A-201-845, *Amendment to the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: The Prevention of Price Suppression or Undercutting of Price Levels by the Amended Agreement* (Dep’t Commerce Aug. 7, 2017), Barcode 3567612-01)) (“Price Suppression and Undercutting Memorandum”) at 13-14.

<sup>91</sup> Coalition Response at 22-25; Imperial Response at 16.

<sup>92</sup> Coalition Response at 6-7.

<sup>93</sup> *Original Determinations*, USITC Pub. 4577 at 24-25, Confidential Original Determinations at 34-35.

<sup>94</sup> *Original Determinations*, USITC Pub. 4577 at 25.

<sup>95</sup> CR/PR at Table I-7.

million STRV of subject imports in CY 2017/18, accounting for \*\*\* percent of the quantity of apparent U.S. consumption.<sup>96</sup>

The information available in these reviews indicates the sugar industry in Mexico is growing, with considerable excess capacity. Since the original investigations, subject producers have expanded both capacity and production.<sup>97</sup> Capacity of sugar producers in Mexico was 9.0 million STRV in CY 2018/19, higher than capacity of 8.4 million STRV in CY 2013/14.<sup>98</sup> Although production was also higher in CY 2018/19 than in CY 2013/14,<sup>99</sup> reported capacity utilization in CY 2018/19 was 81.3 percent, indicating that subject producers have unused capacity from which they could further increase production.<sup>100</sup>

The information available in these reviews further shows that subject producers are dependent on exports, with the United States serving as their most important export market. Subject producers consistently produce more sugar than the Mexican market can consume, necessitating that they export the surplus.<sup>101</sup> The vast majority of those exports are directed to the U.S. market. In particular, Global Trade Atlas (“GTA”) data (which do not include all in-scope product and may contain out of scope merchandise) show that exports to the United States accounted for over 80 percent of total exports each crop year in the reported HTS categories.<sup>102</sup> Thus, the record indicates that the United States remains the primary export market for sugar producers in Mexico, even with the suspension agreements in place and notwithstanding the fact that sugar from Mexico is not subject to antidumping or countervailing duty orders in other third-country markets.<sup>103</sup>

In sum, the sugar industry in Mexico is growing and has considerable excess capacity and, without the restraining effects of the suspension agreements, it is likely to direct

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<sup>96</sup> CR/PR at Table I-8.

<sup>97</sup> CR/PR at Table I-9; Coalition Response at 25 (showing an increase in the acreage harvested by sugar producers in Mexico).

<sup>98</sup> CR/PR at Table I-10.

<sup>99</sup> CR/PR at Table I-10. Production was 6.6 million STRV in CY 2013/14 and 7.3 million STRV in CY 2018/19. *Id.*

<sup>100</sup> CR/PR at Table I-10.

<sup>101</sup> Coalition Response at 26 (*citing* USDA, Sugar and Sweeteners Yearbook, Table 56 (Dec. 4, 2019)).

<sup>102</sup> *See* Memorandum INV-SS-040. GTA data show that exports of sugar from Mexico to the United States were 1.5 million STRV in 2015, 1.3 million STRV in 2016, 1.1 million STRV in 2017, and 1.3 million STRV in 2018. Total exports of sugar from Mexico were 1.7 million STRV in 2015, 1.4 million STRV in 2016, 1.3 million STRV in 2017, and 1.6 million STRV in 2018. *Id.*

<sup>103</sup> CR/PR at I-37.

substantially increased volumes of sugar to the United States, which has remained its primary export market, even with the suspension agreements in place. In light of the foregoing, we conclude that the likely volume of subject imports, both in absolute terms and relative to consumption in the United States, would likely be significant if the suspended investigations were terminated.<sup>104</sup>

#### **D. Likely Price Effects**

##### **1. The Original Investigations**

In the original investigations, the Commission found that that there was significant underselling by subject imports and that subject imports depressed prices of the domestic like product to a significant degree during the period of investigation. In particular, the Commission found that subject imports undersold the domestic like product in the majority of monthly comparisons of pricing data for shipments to unrelated U.S. customers. The Commission also collected purchase cost data from domestic producers that imported sugar for refining, observing that the reported volume of direct imports far exceeded the volume reported for comparisons of prices to unrelated purchasers. It found that the reported purchase costs of direct imports were considerably lower – often more than 20 percent lower – than the prices domestic producers charged for that product and that differences of this magnitude were likely too large to be explained by any differential in the costs associated with being a direct importer. Based on the foregoing, the Commission found that there had been significant underselling by subject imports.<sup>105</sup>

The Commission further found that subject imports depressed prices for the domestic like product to a significant degree during the period of investigation. It observed that the price of each domestically produced pricing product was significantly lower in October 2014 than in September 2011, with the greatest and most sustained declines typically occurring in CY 2012/13 and the beginning of CY 2013/14, when the overall volume of subject imports increased dramatically. The Commission also indicated that prices for subject imports often declined at a greater rate than prices for the domestic like product, and subject import prices were often lower than the prices for imports from all other sources. It further observed that the average unit value of net sales reported by growers, millers, and processors and refiners

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<sup>104</sup> Because of the expedited nature of these reviews, the record does not contain information about inventories of the subject merchandise or the capacity of the subject producers for product shifting during the current period of review.

<sup>105</sup> *Original Determinations*, USITC Pub. 4577 at 26-28.

similarly declined during the period of investigation. Thus, the Commission concluded that the significant and increasing volume of subject imports in 2013 that were sold at low and declining prices forced the domestic industry to cut prices and drove a significant portion of nonsubject imports out of the U.S. market.<sup>106</sup>

## **2. The Current Reviews**

Due to the expedited nature of these reviews, the record does not contain recent product-specific pricing information. As discussed above, we continue to find that there is a moderate-to-high degree of substitutability between subject imports and the domestic like product and that price is an important factor in purchasing decisions. If the suspended investigations were terminated, we find that the likely significant volume of subject imports from Mexico would likely undersell the domestic like product to a significant degree to gain market share, as it did in the original investigations. Furthermore, we find that subject imports would likely enter the United States at low prices that would have significant depressing effects on the prices of the domestic like product, as they did in the original investigation. This would likely require the domestic industry to either cut prices or restrain price increases to compete on price, or risk losing sales to subject imports, resulting in possible forfeitures to the CCC. Thus, we find that there is likely to be significant underselling by subject imports as compared to the domestic like product and that subject imports are likely to enter the United States at prices that would have significant depressing or suppressing effects on the price of the domestic like product.

### **E. Likely Impact**

#### **1. The Original Investigations**

During the original period of investigation, the Commission found that, as apparent U.S. consumption increased, the domestic industry's production and shipments by quantity increased. It further found that notwithstanding those increases, certain key measures of industry performance declined during that period, and all segments of the domestic industry -- growers, millers, processors, and refiners -- experienced significant deterioration in financial

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<sup>106</sup> *Original Determinations*, USITC Pub. 4577 at 29. The Commission also observed that most market participants reported that the availability of subject imports in the United States had a material impact on the price of sugar in the U.S. market during the period of investigation and that, as subject imports surged into the U.S. market, the gap between world prices and U.S. prices narrowed in late 2012 and 2013 but then widened in 2014 as the volume of subject imports decreased. *Id.*

performance due to sharp price declines. The Commission found that, as the significant and increasing volume of subject imports depressed domestic prices for both raw and refined sugar, the value of the domestic industry's U.S. shipments and net sales decreased markedly, notwithstanding that the quantity of the domestic industry's total U.S. shipments and sales increased or fluctuated. This led to declines in the industry's financial performance. The Commission also found that declining prices required the U.S. government to spend \$258.7 million to remove one million STRV of domestically produced sugar from the U.S. market, in an effort to stabilize prices.<sup>107</sup> The Commission concluded that, because of the significant price effects of the subject imports, the domestic industry obtained significantly lower prices and therefore lower revenues and profitability than it would have otherwise. Thus, the Commission found that subject imports had a significant impact on the domestic industry during the period of investigation.<sup>108</sup>

In its non-attribution analysis, the Commission observed that, notwithstanding that nonsubject imports increased by quantity from CY 2012/13 to CY 2013/14, their volume and market share declined sharply over the full period of investigation. The Commission further found that the increasing volume of low-priced subject imports during CY 2012/13 caused a reduction in the quantity of TRQ imports from nonsubject countries that year. Therefore, it concluded that nonsubject imports could not have been a cause of the significant price declines the domestic industry experienced during that period.<sup>109</sup>

The Commission also considered other factors, including declining world prices, favorable conditions that resulted in a bumper domestic crop in CY 2012/13, declining domestic beet sugar prices, and competition among domestic producers, as well as the fact that certain domestic refiners accounted for a significant portion of the increase in subject imports during the period of investigation. It concluded that, although these factors may have contributed to some extent to market conditions during the period of investigation, they could not explain the declines in the prices of the domestic like product that occurred during the period of investigation. Rather, there was a causal link between subject imports and domestic producers'

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<sup>107</sup> As the Commission explained, the special rules for agricultural products, 19 U.S.C. § 1677(7)(D)(ii), provide, in relevant part, that "in assessing material injury by reason of subject imports, the Commission must consider any increased burden of government income or price support programs." *Original Determinations*, USITC Pub. 4577 at 36 n.218.

<sup>108</sup> *Original Determinations*, USITC Pub. 4577 at 32-37.

<sup>109</sup> *Original Determinations*, USITC Pub. 4577 at 37.

price declines and the consequent declines in the domestic industry's revenues and financial performance.<sup>110</sup>

## 2. The Current Reviews

In these expedited reviews, the information available on the domestic industry's condition is limited to that which the Coalition and Imperial provided in their responses to the notice of institution. In CY 2018/19, the domestic industry's capacity was \*\*\* STRV, its production was \*\*\* STRV, and its capacity utilization rate was \*\*\* percent.<sup>111</sup> Domestic shipments were \*\*\* STRV, accounting for a \*\*\* percent share of apparent U.S. consumption in CY 2018/19.<sup>112</sup> The industry's net sales revenue was \$\*\*\*, and its ratio of COGS to net sales was \*\*\* percent. Its gross profit was \$\*\*\*, and its operating income was \$\*\*\*, resulting in a ratio of operating income to net sales of \*\*\* percent.<sup>113</sup> The limited evidence in these expedited reviews is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury should the suspended investigations be terminated.

Based on the information available in these reviews, we find that termination of the suspended investigations would likely lead to a significant volume of subject imports and that these imports would likely undersell the domestic like product and have significant depressing or suppressing effects on domestic like product prices. To compete with the likely additional volumes of subject imports, the domestic industry would need to cut prices, forego needed price increases, and/or lose sales, resulting in possible forfeitures to the CCC. This would likely lead to reduced sales and/or revenue. These reductions would, in turn, likely have a direct adverse impact on the domestic industry's profitability and employment levels, ability to raise capital and maintain capital investments, and research and development expenditures.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute likely injury from other factors to the subject imports. As previously discussed, during CY 2018/19, nonsubject imports accounted for a slightly greater share of apparent U.S. consumption than subject imports, with nonsubject imports accounting for \*\*\* percent of apparent U.S. consumption and subject imports

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<sup>110</sup> *Original Determinations*, USITC Pub. 4577 at 37.

<sup>111</sup> CR/PR at Table I-6.

<sup>112</sup> CR/PR at Tables I-6 and I-8.

<sup>113</sup> CR/PR at Table I-6.

accounting for \*\*\* percent.<sup>114</sup> There is no indication on the record of these reviews that the presence of nonsubject imports would prevent subject imports from significantly increasing their presence in the U.S. market in the event that the suspended investigations were terminated, particularly given the fact that subject imports displaced nonsubject imports in the original investigations.<sup>115</sup> Additionally, given the moderate-to-high degree of substitutability between subject imports and the domestic like product, any increase in subject import volume and market penetration is likely to come, at least in part, at the expense of the domestic industry. However, even if the likely volume of subject imports primarily displaces nonsubject imports, subject imports are likely to cause significant adverse price effects, as they did in the original investigations. In light of these considerations, we find that the effects we have attributed to the subject imports are distinguishable from any effects likely from nonsubject imports in the event that the suspended investigations are terminated.

Accordingly, we conclude that termination of the suspended antidumping and countervailing duty investigations on sugar from Mexico would likely have a significant adverse impact on domestic producers of sugar within a reasonably foreseeable time.

#### **IV. Conclusion**

For the above reasons, we determine that termination of the suspended antidumping and countervailing duty investigations on sugar from Mexico would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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<sup>114</sup> CR/PR at Table I-8.

<sup>115</sup> As noted above, nonsubject imports are regulated using tariff rate quotas (“TRQs”). While in-quota imports are subject to minimal “tier I” tariffs, imports in excess of the applicable quotas are subject to much higher “tier II” tariffs, which are normally prohibitive. *See Original Determinations*, USITC Pub. 4577 at 19.



# Information obtained in these reviews

## Background

On November 29, 2019, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted reviews to determine whether termination of the suspension investigation on sugar from Mexico would be likely to lead to continuation or recurrence of material injury.<sup>2</sup> All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.<sup>3</sup> <sup>4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:

<b>Effective date</b>	<b>Action</b>
November 29, 2019	Notice of institution by Commission (84 FR 65841, November 29, 2019)
November 29, 2019	Notice of initiation by Commerce (84 FR 66153, December 3, 2019)
March 3, 2020	Commission’s vote on adequacy
April 1, 2020	Commerce’s results of its expedited reviews
April 21, 2020	Commission’s determinations and views

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> 84 FR 65841, November 29, 2019. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty suspension agreements. 84 FR 66153, December 3, 2019. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in the original investigations is presented in app. C.

<sup>4</sup> Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

## Responses to the Commission’s notice of institution

### Individual responses

The Commission received two submissions in response to its notice of institution in the subject reviews.<sup>5</sup> They were filed on behalf of the following entities (collectively referred to herein as “domestic interested parties”):

1. American Sugar Coalition and its members (The members of the American Sugar Coalition are as follows: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association), domestic producers (sugarcane growers, sugar beet farmers, cane sugar millers, sugar beet processors, and cane sugar refiners) of sugar (collectively referred to herein as “American Sugar” or “domestic interested party American Sugar”)<sup>6</sup>

2. Imperial Sugar Company, domestic producer (cane sugar refiner) of sugar (referred to herein as “Imperial Sugar” or “domestic interested party Imperial Sugar”)<sup>7</sup>

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and estimates of coverage for each is shown in table I-1.

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<sup>5</sup> The Commission’s notice of institution requested data for crop year (“CY”) (typically October through September) 2017/18.

<sup>6</sup> American Sugar also provided data on imports of sugar from Mexico by member American Sugar Refining, Inc. (“ASR”) in its domestic interested party response to the notice of institution. No other member of American Sugar imported subject merchandise during CY 2017/18. American Sugar supports continuation of the suspension agreements covering imports of sugar from Mexico.

<sup>7</sup> Imperial Sugar also provided data on its imports of sugar from Mexico in its domestic interested party response to the notice of institution. Imperial Sugar is in support of the continuation of the suspension agreements covering imports of sugar from Mexico.

**Table I-1****Sugar: Summary of responses to the Commission’s notice of institution**

Type of interested party	Completed responses	
	Number of firms	Coverage
Domestic:		
U.S. producer	9	100%
U.S. importer (domestic producers Imperial Sugar and ASR)	2	***%

Note: The nine U.S. producer entities are Imperial Sugar, the American Sugar Coalition, and American Sugar Coalition Members: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association. American Sugar provided the requested data for its U.S. cane miller, beet processor, and cane refiner members but did not provide the requested data for its sugar cane grower and sugar beet farmer members separately. American Sugar estimated that its members account for all millers manufacturing raw sugar from sugarcane in the United States and that its member beet processors and cane refiners account for the “vast majority” of sugar production in the United States. For CY 2017/18, its members’ combined production of refined sugar accounted for 9,483 short tons raw value (“STRV”). By comparison, it reported that the U.S. Department of Agriculture (“USDA”) estimated total U.S. production of refined sugar of 9,293 STRV in CY 2017/18. American Sugar’s response to questions from Commission regarding response to notice of institution, January 22, 2020, p. 7; American Sugar’s response to the notice of institution, December 30, 2019, exh. 12.

Note: The import coverage figure presented, as calculated from data provided by American Sugar and Imperial Sugar in their responses, represents the two importers’ aggregate share of the quantity of total U.S. imports of sugar from Mexico during CY 2017/18. ASR’s production of refined sugar from imported Mexican raw sugar accounted for \*\*\* percent of its total production of refined sugar in CY 2017-18 (\*\* STRV), or \*\*\* STRV in CY 2017/18 imports from Mexico. Additionally, Imperial Sugar reported that it imported \*\*\* STRV of sugar from Mexico in CY 2017/18, which appears to have been imported through its subsidiary Imperial-Savannah, LP. Imperial Sugar estimated its imports represented \*\*\* percent of total CY 2017/18 U.S. sugar imports from Mexico based on adjusted USDA import data. The import coverage figure presented in the table is based on the adjusted USDA total import data for CY 2017/18 from Mexico as provided by Imperial Sugar (1,223,289 STRV). American Sugar’s response to questions from Commission regarding response to notice of institution, January 22, 2020, pp. 3-4, and 39; Imperial Sugar’s response to the notice of institution, December 30, 2019, exh. 2; and Imperial Sugar’s supplemental response, January 22, 2020, p. 1.

**Party comments on adequacy**

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from the American Sugar Coalition and its members. American Sugar requests that the Commission

conduct expedited reviews of the antidumping and countervailing duty suspension agreements on sugar.<sup>8</sup>

## The original investigations

The original investigations resulted from petitions filed on March 28, 2014 with Commerce and the Commission by the American Sugar Coalition and its members: American Sugar Cane League, Thibodaux, Louisiana; American Sugarbeet Growers Association, Washington, DC; American Sugar Refining, Inc., West Palm Beach, Florida; Florida Sugar Cane League, Washington, DC; Hawaiian Commercial and Sugar Company, Puunene, Hawaii; Rio Grande Valley Sugar Growers, Inc., Santa Rosa, Texas; Sugar Cane Growers Cooperative of Florida, Belle Glade, Florida; and United States Beet Sugar Association, Washington, DC.<sup>9</sup> Following the Commission's and Commerce's preliminary affirmative determinations, Commerce suspended the antidumping duty and countervailing duty investigations on sugar from Mexico, effective December 19, 2014, pursuant to suspension agreements. Subsequently, on January 8, 2015, domestic producers and importers, Imperial Sugar and AmCane Sugar LLC ("AmCane"), filed separate petitions with the Commission requesting reviews of the suspension agreements pursuant to sections 704(h) and 734(h) of the Tariff Act of 1930 (19 U.S.C. § 1671c(h), 1673c(h)). On March 19, 2015, the Commission determined that the agreements Commerce entered into with Mexican exporters of sugar and the government of Mexico suspending the antidumping and countervailing duty investigations concerning sugar from Mexico eliminated completely the injurious effect of subject imports.<sup>10</sup> On January 16, 2015, Imperial Sugar and AmCane also submitted timely requests with Commerce to continue the antidumping and countervailing duty investigations on sugar from Mexico. Subsequently, Commerce resumed the investigations on May 4, 2015 and the Commission continued the final phase of its investigations on a revised schedule. On September 23, 2015, Commerce determined that imports of sugar from Mexico were being sold at less than fair value ("LTFV") and subsidized by the Government of Mexico with the final weighted-average dumping margins ranging from 40.48 to 42.14 percent and net subsidy rates ranging from 5.78 to 43.93

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<sup>8</sup> American Sugar's comments on adequacy, February 11, 2020, p. 2.

<sup>9</sup> Sugar from Mexico, Inv. Nos. 701-TA-513 and 731-TA-1249 (Final), USITC Publication 4577, November 2015 ("Original publication"), p. I-1.

<sup>10</sup> *Sugar from Mexico*, Inv. Nos. 704-TA-1 and 734-TA-1, USITC Pub. 4523 (Review), April 2015; *Imperial Sugar Co. v. United States*, 181 F. Supp. 3d 1284 (2016).

percent.<sup>11</sup> The Commission determined on November 6, 2015 that the domestic industry was materially injured by reason of LTFV and subsidized imports of sugar from Mexico.<sup>12</sup>

## Previous and related investigations

The Commission has conducted several previous proceedings concerning sugar or similar products (table I-2).

**Table I-2**  
**Sugar: Previous and related Commission proceedings**

Inv. number	Country	Original investigation		First review		Second review		Current status
		Year	Outcome	Year	Outcome	Year	Outcome	
AA1921-198	Belgium	1979	Affirmative	1999	Affirmative	2005	Negative	Revoked 10/28/2004
AA1921-199	France	1979	Affirmative	1999	Affirmative	2005	Negative	Revoked 10/28/2004
AA1921-200	Germany	1979	Affirmative	1999	Affirmative	2005	Negative	Revoked 10/28/2004
731-TA-3	Canada	1980	Affirmative	1999	Negative	-	-	Revoked 10/28/1999
104-TAA-7	European Community	1982	Affirmative	1999	Affirmative	2005	Negative	Revoked 10/28/2004

Note: "Year" refers to the year in which the Commission made its determination.

Source: Various Commission publications and Federal Register notices.

### Raw sugar from Belgium, France, and Germany

In May 1979, the Commission determined that an industry in the "Southeastern United States region" was being injured by reason of LTFV imports of raw cane sugar from Belgium, France, and Germany. Consequently, on June 13, 1979, Treasury imposed antidumping duty findings on raw sugar from Belgium, France, and Germany.<sup>13</sup>

### Sugar and syrups from Canada

In March 1980, the Commission determined that an industry in the "Northeastern States region" of the United States was materially injured by reason of imports of sugar and syrups from Canada that the U.S. Department of the Treasury ("Treasury") had determined were

<sup>11</sup> 80 FR 57341, September 23, 2015; and 80 FR 57337, September 23, 2015.

<sup>12</sup> 80 FR 70833, November 16, 2015.

<sup>13</sup> 44 FR 33878, June 13, 1979.

being, or were likely to be, sold in the United States at less than fair value.<sup>14</sup> On April 9, 1980, Commerce imposed an antidumping duty order on imports of sugar and syrups from Canada.<sup>15</sup>

### **Sugar from the European Community**

On July 31, 1978, Treasury imposed a countervailing duty finding on imports of sugar from the European Community.<sup>16</sup> On March 28, 1980, the Commission received a request from the Delegation of the European Community (now the European Union) for an investigation under section 104(b) of the Trade Agreements Act of 1979 of whether revocation of the countervailing finding on sugar from the European Community would cause material injury or threat of material injury to a domestic industry. On May 6, 1982, the Commission determined that an industry in the United States would be threatened with material injury if the countervailing duty finding on sugar from the European Community were revoked.<sup>17</sup> Accordingly, the finding remained in effect.

### **Grouped sunset reviews**

On October 1, 1998, the Commission instituted the first grouped sunset reviews of the findings/orders on sugar from the European Union (formerly European Community); sugar from Belgium, France, and Germany; and sugar and syrups from Canada.<sup>18</sup> On September 15, 1999, the Commission determined that revocation of the antidumping duty order on sugar and syrups from Canada would not be likely to lead to the continuation or recurrence of material injury to

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<sup>14</sup> Sugars and Sirups from Canada, Determination of Material Injury in Investigation No. 731-TA-3 (Final), USITC Publication 1047, March 1980, pp. 1-17. The Commission defined the regional industry in that investigation as domestic producers of refined sugar located in the states of Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. *Ibid.*, p. 8.

<sup>15</sup> 45 FR 24126, April 9, 1980. The Commission's 1980 determination was appealed to the U.S. Court of International Trade ("CIT"), and after three remands, the CIT vacated the Commission's affirmative determination. The Commission appealed to the Federal Circuit, which reversed the CIT and reinstated the Commission's affirmative determination. Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups from Canada, Investigation Nos. 104-TAA-7 (Review); AA1921-198-200 (Review); and 731-TA-3 (Review), USITC Publication 3238, September 1999, p. 3.

<sup>16</sup> 43 FR 33237, July 31, 1978. There was no Commission determination of material injury by reason of subsidized imports prior to issuance of the finding because imports from the European Community were not eligible for an injury test unless they were duty free.

<sup>17</sup> Sugar from the European Community, Investigation No. 104-TAA-7, USITC Publication 1247, May 1982, p. 1.

<sup>18</sup> 63 FR 52759, October 1, 1998.

an industry in the United States within a reasonably foreseeable time.<sup>19</sup> Commerce accordingly revoked the order with respect to Canada on October 28, 1999.<sup>20</sup> The Commission also determined that revocation of the countervailing duty finding on sugar from the European Union and the antidumping duty findings on sugar from Belgium, France, and Germany would likely lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>21</sup> Commerce accordingly continued the findings/order on October 28, 1999, with respect to Belgium, France, Germany, and the European Union.<sup>22</sup>

On September 1, 2004 the Commission instituted the grouped second five-year reviews on sugar from Belgium, France, Germany, and the European Union.<sup>23</sup> On August 29, 2005, the Commission determined that revocation of the countervailing duty order on sugar from the European Union would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission also determined that revocation of the antidumping findings on sugar from Belgium, France, and Germany would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>24</sup> Commerce accordingly revoked the orders effective October 28, 2004.<sup>25</sup>

## **Commerce's five-year reviews**

Commerce is conducting expedited reviews with respect to the suspension agreements on imports of sugar from Mexico and intends to issue the final results of these reviews based on the facts available not later than April 1, 2020.<sup>26</sup> Commerce's Issues and Decision Memoranda, published concurrently with Commerce's final results, contains complete and up-to-date information regarding the background and history of the agreements, including scope rulings, duty absorption, changed circumstances reviews, and anti-circumvention. Upon publication, a complete version of the Issues and Decision Memoranda can be accessed at

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<sup>19</sup> 64 FR 54355, October 6, 1999.

<sup>20</sup> 64 FR 58035, October 28, 1999.

<sup>21</sup> 64 FR 54355, October 6, 1999.

<sup>22</sup> 64 FR 58033, October 28, 1999.

<sup>23</sup> 69 FR 53466, September 1, 2004.

<sup>24</sup> 70 FR 52446, September 2, 2005.

<sup>25</sup> 70 FR 54522, September 15, 2005.

<sup>26</sup> Letter from Alex Villanueva, Senior Director, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, January 22, 2020.

<http://enforcement.trade.gov/frn/>. The Memoranda will also include any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping and countervailing duty suspension agreements on imports of sugar from Mexico are noted in the sections titled “The original investigations” and “U.S. imports,” if applicable.

## The product

### Commerce’s scope

Commerce has defined the scope as follows:

*The product covered by this investigation is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. The chemical sucrose gives sugar its essential character. Sucrose is a nonreducing disaccharide composed of glucose and fructose linked by a glycosidic bond via their anomeric carbons. The molecular formula for sucrose is C<sub>12</sub>H<sub>22</sub>O<sub>11</sub>; the International Union of Pure and Applied Chemistry (IUPAC) International Chemical Identifier (InChI) for sucrose is 1S/C12H22O11/c13-1-4-6(16)8(18)9(19)11(21-4)23-12(3-15)10(20)7(17)5(2-14)22-12/h4-11,13-20H,1-3H2/t4-,5-,6-,7-,8+,9-,10+,11-,12+/m1/s1; the InChI Key for sucrose is CZMRCDWAGMRECN-UGDNZRGBSA-N; the U.S. National Institutes of Health PubChem Compound Identifier (CID) for sucrose is 5988; and the Chemical Abstracts Service (CAS) Number of sucrose is 57-50-1.*

*Sugar described in the previous paragraph includes products of all polarimeter readings described in various forms, such as raw sugar, estandar or standard sugar, high polarity or semi-refined sugar, special white sugar, refined sugar, brown sugar, edible molasses, desugaring molasses, organic raw sugar, and organic refined sugar. Other sugar products, such as powdered sugar, colored sugar, flavored sugar, and liquids and syrups that contain 95 percent or more sugar by dry weight are also within the scope of this investigation.*

*The scope of the investigation does not include (1) sugar imported under the Refined Sugar Re-Export Programs of the U.S. Department of Agriculture; \*\*\* (2) sugar products produced in Mexico that contain 95 percent or more sugar by dry weight that originated outside of Mexico; (3) inedible molasses (other than inedible desugaring molasses noted above); (4) beverages; (5) candy; (6) certain specialty sugars; and (7) processed food products that contain sugar (e.g., cereals). Specialty sugars excluded from the scope of this investigation are limited to the following: caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations.*

*Merchandise covered by this investigation is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5025, 1701.99.5050, 1702.90.4000 and 1703.10.3000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this investigation is dispositive.<sup>27</sup>*

## **U.S. tariff treatment**

Based on the scope set forth by Commerce, sugar that is the subject of these reviews is currently imported under the HTS statistical reporting numbers shown in table I-3. Sugar imported from Mexico is eligible to enter the U.S. market subject to the conditions of the North American Free Trade Agreement (“NAFTA”) at a free rate of duty. U.S. imports of sugar from Mexico, including products within the scope of these investigations, that are originating goods of Mexico have been granted duty-free treatment under NAFTA since January 1, 2008. Duty-free rates for U.S. sugar imports from Mexico will continue under the provisions of the United States-Mexico-Canada Agreement (“USMCA”).<sup>28</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection. As discussed elsewhere, industry terminology for “raw” and “refined” sugar may not directly correspond to the HTS definitions.<sup>29</sup>

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<sup>27</sup> 80 FR 57341, September 23, 2015.

<sup>28</sup> Executive Office of the President (“EOP”), Office of the United States Trade Representative (“USTR”), Agreement between the United States of America, the United Mexican States, and Canada 12/12/19 Text, <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>, retrieved January 13, 2020.

<sup>29</sup> Subheading Note 1 of Chapter 17 defines raw sugar thusly: “For the purposes of subheadings 1701.12, 1701.13 and 1701.14, “raw sugar” means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degrees.” HTS, 2020, p. 17-1.

**Table I-3****Sugar: HTSUS classification of sugar products within the scope of the reviews**

<b>HTSUS statistical reporting numbers</b>	<b>Brief description</b>
1701.12.1000	Raw beet sugar, in-quota
1701.12.5000	Raw beet sugar, over-quota
1701.13.1000	Raw cane sugar, non-centrifugal, in-quota
1701.13.5000	Raw cane sugar, non-centrifugal, over-quota
1701.14.1000	Raw cane sugar, centrifugal, in-quota
1701.14.5000	Raw cane sugar, centrifugal, over-quota
1701.91.1000	Sugar, other than raw, containing additional coloring but not flavoring, in-quota
1701.91.3000	Sugar, other than raw, containing additional coloring but not flavoring, over-quota
1701.99.1015	Sugar, other than raw, not containing additional coloring or flavoring, specialty sugars, certified organic, in-quota
1701.99.1017	Sugar, other than raw, not containing additional coloring or flavoring, specialty sugars, not certified organic, in-quota
1701.99.1025	Sugar, other than raw, not containing additional coloring or flavoring, not specialty sugars, not for further processing, in-quota
1701.99.1050	Sugar, other than raw, not containing additional coloring or flavoring, not specialty sugars, for further processing, in-quota
1701.99.5010	Sugar, other than raw, not containing additional coloring or flavoring, specialty sugars, over-quota
1701.99.5025	Sugar, other than raw, not containing additional coloring or flavoring, not specialty sugars, not for further processing, over-quota
1701.99.5050	Sugar, other than raw, not containing additional coloring or flavoring, not specialty sugars, for further processing, over-quota
1702.90.4000	Other cane and beet syrups, not elsewhere specified or included
1703.10.3000	Cane molasses, for extraction of sugar or human consumption

Note: "Specialty sugar" is defined to include the following: brown slab sugar (also known as (a.k.a.) slab sugar candy), pearl (a.k.a., perl, perle, nibs) sugar, vanilla sugar, rock candy, demerara sugar, dragees for cooking and baking, fondant (a creamy blend of sugar and glucose), ti light sugar (99.2 percent sugar with the residual comprised of the artificial sweeteners aspartame and acesulfame K), caster sugar, golden syrup, ferdiana granella grossa, golden granulated sugar, muscovado, molasses sugar, sugar decorations, sugar cubes, and other sugars, as determined by the United States Trade Representative, that would be considered specialty sugar products within the normal commerce of the United States. 61 FR 26783, May 29, 1996. The scope as set forth by Commerce specifically excludes the following specialty sugars: caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations. Thus, classifications 1701.99.1015, 1701.99.1017, and 1701.99.5010 that include specialty sugars may contain products outside the scope of these reviews.

Note: Classifications 1701.99.1015 and 1701.99.1017 were added to the USHTS in 2017 and were thus not included in Commerce's 2015 scope language.

Source: HTS, 2020.

## Tariff-rate quotas on U.S. sugar imports

U.S. imports of sugar have been subject to tariff-rate quotas (“TRQs”) since October 1, 1990.<sup>30</sup> TRQs were initially established to satisfy a General Agreement on Tariffs and Trade (“GATT”) ruling against the U.S. system of fixed sugar quotas.<sup>31</sup> In the Uruguay Round Agreement on Agriculture the United States committed to minimum TRQs on sugar. The United States established these WTO TRQs starting in October 1995 (the U.S. sugar market/crop/quota year runs concurrently with the U.S. federal fiscal year, October 1, 1995 through September 30, 1996 represents fiscal year 1996 or “FY1996”).<sup>32</sup> The United States committed to import not less than 1,117,195 metric tons (1,231,484 short tons) of raw cane sugar.<sup>33</sup> Additionally, the United States committed to import not less than 22,000 metric tons (24,252 short tons) of other sugars (includes refined sugars, specialty sugars, and raw beet sugar), syrups, and molasses.<sup>34</sup> The Secretary of Agriculture is authorized to increase the TRQ quantities above the minimum WTO requirement when domestic supplies of sugar may be inadequate and has done so in all of the years since these final investigations were completed.<sup>35</sup>

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<sup>30</sup> The initial TRQ quantity was 1.725 million metric tons of raw sugar with an in-quota tariff of 0.625 cents per pound and an over-quota rate of 16 cents per pound. Alvarez, Jose and Leo c. Polopolus, Sugar and the General Agreement of Tariffs and Trade, Institute of Food and Agricultural Sciences, University of Florida, reviewed October 2008. <http://ufdcimages.uflib.ufl.edu/ir/00/00/09/54/00001/sc02200.pdf>, retrieved February 4, 2020.

<sup>31</sup> Ibid.

<sup>32</sup> The United States’ minimum in-quota sugar import quantity is set by commitments made in Schedule XX of the GATT Marrakesh Protocol; however, the Secretary of Agriculture can adjust these figures upward under certain circumstances, to allow a larger quantity of sugar to enter at the lower, in-quota, duty rate. HTS, 1995, Chapter 17, Additional U.S. Notes, Note 5(a)(i) and HTS, 2020, Chapter 17, Additional U.S. Notes, Note 5(a)(ii).

<sup>33</sup> Additional U.S. Note 5(a)(i) to chapter 17 of the Harmonized Tariff Schedule provides for separate TRQs for imports of raw cane sugar and imports of other sugars, syrups, and molasses. The first portion of the WTO TRQ is commonly referred to as the raw cane sugar TRQ and includes products provided for under subheadings 1701.13.10 and 1701.14.10; both of which are included in the scope of these reviews. HTS, Chapter 17, 2020.

<sup>34</sup> This portion of the WTO TRQ is commonly referred to as the refined sugar TRQ. Sugar imported under the refined sugar TRQ can be produced from either sugar beets or sugarcane. Imports of certain other sugars, syrups, and molasses are provided for under subheadings 1701.12.10, 1701.91.10, 1701.99.10 that are included in the scope of these reviews; and 1702.90.10 and 2106.91.44 that are not included in the scope of these reviews.

<sup>35</sup> HTSUS 2020, Additional U.S. Notes, Note 5(a)(ii). During FY2017, the raw sugar TRQ was increased by 244,690 metric tons raw value (“MTRV”). From FY2016 through FY2020; increases in the refined sugar TRQ ranged from 130,000 MTRV in FY2016 to 170,000 MTRV in FY2020; these increases in the

The USTR allocates the entire raw cane sugar TRQ quantity on a country-by-country basis based on historical shipments;<sup>36</sup> however, based on consultations with quota holders, USTR has re-allocated unused portions of these historically-based initial allocations most years since completion of these final investigations.<sup>37</sup> For refined sugar, USTR allocates a portion of the TRQ in-quota quantity to specific countries, while the remainder is available on a global first-come, first-served basis.<sup>38</sup>

For fiscal year FY2018 – the most recent quota year for which final data are available – the raw cane sugar TRQ in-quota quantity was initially set at the minimum level of 1,117,195 MTRV (1,231,484 STRV).<sup>39</sup> The refined sugar TRQ was initially set at 182,000 MTRV (200,621 STRV), including 1,656 MTRV reserved for specialty sugar.<sup>40</sup> Table I-4 presents the country specific raw cane sugar TRQ allocations for FY2018.<sup>41</sup>

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(...continued)

refined sugar TRQ have been exclusively reserved for specialty sugars, including organic sugar. 84 FR 30691, 83 FR 30687, 82 FR 29822, 82 FR 34472, 82 FR 11893, and 81 FR 27390.

<sup>36</sup> See 84 FR 33798 for initial FY2020 quantity allocations; initial allocation of the minimum raw cane sugar TRQ quantity changes very little from year to year. The raw cane sugar TRQ is administered by a system of licenses called Certificates of Quota Eligibility (“CQEs”). CQEs are provided by the USDA to foreign governments to distribute to exporters. Each shipment must be accompanied by a valid CQE.

<sup>37</sup> See 84 FR 29927 for reallocation of FY2019 unused quantities; 84 FR 36070 for reallocation of FY2017 unused quantities; and 81 FR 12191 for reallocation of FY 2016 unused quantities.

<sup>38</sup> For FY2018 the refined sugar TRQ was allocated as follows: 10,300 MTRV was allocated to Canada, refined sugar from Canada must be manufactured from sugar beets grown in Canada; 2,954 MTRV was allocated to Mexico; and 7,090 MTRV was allocated on a first-come, first-served basis. Canada is allowed to utilize the first-come, first-served quantities before filling its reserved amount. Under the USMCA, Canada will be allocated an additional 9,600 MTRV of refined sugar access that must be wholly obtained from sugar beets grown in Canada. Office of the United States Trade Representative, Trade Agreements, United States-Mexico-Canada Agreement, Agreement between the United States of America, the United Mexican States, and Canada 12/12/19 Text, <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>, retrieved February 4, 2020.

<sup>39</sup> 82 FR 32599, July 14, 2017.

<sup>40</sup> The specialty sugar TRQ is divided in to five tranches to allow for orderly marketing throughout the year. 82 FR 32599, July 14, 2017.

<sup>41</sup> 82 FR 32599, July 14, 2017.

**Table I-4**  
**Sugar: U.S. raw cane sugar WTO TRQ allocations and entries, FY2018**

<b>Country</b>	<b>Entries final (MTRV)</b>	<b>TRQ (MTRV)</b>	<b>Final shortfalls (MTRV)</b>	<b>Entries' share of TRQ (percent)</b>
Argentina	43,784	45,281	1,497	96.7
Australia	83,360	87,402	4,042	95.4
Barbados	578	7,371	6,793	7.8
Belize	11,584	11,584	0	100.0
Bolivia	7,565	8,424	859	89.8
Brazil	142,120	152,691	10,571	93.1
Colombia	24,558	25,273	715	97.2
Congo	0	7,258	7,258	0.0
Costa Rica	15,772	15,796	24	99.8
Cote d'Ivoire	0	7,258	7,258	0.0
Dominican Republic	184,725	185,335	610	99.7
Ecuador	11,528	11,584	56	99.5
El Salvador	27,379	27,379	0	100.0
Fiji	9,034	9,477	443	95.3
Gabon	0	7,258	7,258	0.0
Guatemala	50,166	50,546	380	99.2
Guyana	12,610	12,636	26	99.8
Haiti	0	7,528	7,258	0.0
Honduras	5,921	10,530	4,609	56.2
India	7,896	8,424	528	93.7
Jamaica	11,578	11,584	6	99.9
Madagascar	0	7,258	7,258	0.0
Malawi	9,642	10,530	888	91.6
Mauritius	12,636	12,636	0	100.0
Mexico	0	7,258	7,258	0.0
Mozambique	13,690	13,690	0	100.0
Nicaragua	14,268	22,114	7,846	64.5

Table continued on next page.

Table I-4—Continued

**Sugar: U.S. raw cane sugar WTO TRQ allocations and entries, FY2018**

Country	Entries final (MTRV)	TRQ <sup>2</sup> (MTRV)	Final shortfalls (MTRV)	Entries' share of TRQ (percent)
Panama	19,655	30,538	10,883	64.4
Papua New Guinea	0	7,258	7,258	0.0
Paraguay	4,319	7,258	2,939	59.5
Peru	38,213	43,175	4,962	88.5
Philippines	119,582	142,160	22,578	84.1
South Africa	24,220	24,220	0	100.0
St. Kitts & Nevis	0	7,258	7,258	0.0
Swaziland	16,848	16,849	1	100.0
Taiwan	0	12,363	12,636	0.0
Thailand	14,743	14,743	0	100.0
Trinidad & Tobago	0	7,371	7,371	0.0
Uruguay	0	7,258	7,258	0.0
Zimbabwe	12,635	12,636	0	100.0
Total	950,610	1,117,195	166,585	85.1

Note: The marketing/quota year for sugar corresponds to the federal fiscal year, which begins on October 1 and ends on September 30.

Note: In June 2017, USDA set the raw sugar WTO TRQ at the minimum level to which the United States is committed by the Uruguay Round Agreement on Agriculture. 82 FR 29822, June 30, 2017. In July 2017, USTR allocated the total quantity of raw cane sugar and subsequently made no reallocations of unused quantities. 82 FR 32599, July 14, 2017.

Note: All sugar from Mexico currently entering the United States consists of originating goods under NAFTA.

Source: Compiled from USDA Sugar and Sweeteners Yearbook, Table 57i, <https://www.ers.usda.gov/data-products/sugar-and-sweeteners-yearbook-tables.aspx>, retrieved January 2, 2020.

**In-quota and over-quota duties under WTO raw cane sugar TRQ**

Raw cane sugar imports under the WTO TRQ (HTS subheadings 1701.13.10 and 1701.14.10) are within the scope of these reviews. Raw cane sugar imports are assessed an in-quota general duty rate of 1.4606 cents per kilogram (0.6625 cents per pound) based on sugar with a polarimeter reading of 100 degrees.<sup>42</sup> The duty rate is reduced by 0.020668 cents per

<sup>42</sup> HTSUS, Chapter 17, 2020.

kilogram (0.009375 cents per pound) for each degree of purity under 100 degrees (and fractions of a degree in proportion) but not less than 0.943854 cents per kilogram (0.428129 cents per pound).<sup>43</sup> These general in-quota duties rates have not changed since the final investigations were completed.<sup>44</sup>

In-quota raw cane sugar imports from selected countries are eligible for duty-free treatment under preferential trade arrangements (“PTAs”). These PTAs include the Generalized System of Preferences (“GSP”),<sup>45</sup> the Caribbean Basin Economic Recovery Act (“CBERA”),<sup>46</sup> and the African Growth and Opportunity Act (“AGOA”). Individual countries with in-quota duty-free access under provisions of free trade agreements (“FTAs”) include Costa-Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua as members of CAFTA-DR free trade agreement; Colombia; Panama; and Peru.<sup>47</sup>

Raw cane sugar imports in excess of the quota allocations (HTS subheadings 1701.13.50 and 1701.14.50) are within the scope of these reviews. These imports are not subject to quantity limitations but are subject to much higher over-quota duty rates of 33.87 cents per kilogram (15.36 cents per pound). The over-quota duty ranged from 88.2 percent of the world

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<sup>43</sup> The minimum tariff rate of 0.943854 cents per kilogram corresponds to a polarimeter reading of 74.99416 degrees.

<sup>44</sup> In-quota duty rates also apply to imports of raw cane sugar under general note 15 to the HTS (relating to imports not entered for general consumption) and to imports of raw cane sugar to be used in the production of polyhydric alcohols or to be refined and re-exported in refined form or in sugar-containing products, or to be substituted for domestically produced raw cane sugar that has been or will be exported, although these shipments are not counted toward the quota quantities that would cause over-quota rates to be charged. These products are not in the scope of these reviews.

<sup>45</sup> U.S. imports under HTS subheadings 1701.12.05, 1701.12.10, 1701.13.05, 1701.13.10, 1701.13.20, 1701.14.05, 1701.14.10, 01701.14.20, 1701.91.05, 1701.91.80, 1701.99.05, 1701.99.10, 1702.90.10, 1702.90.35, and 1702.90.40 from Brazil; 1701.13.10 1701.14.10, 1702.30.22, 1702.60.22, and 1702.90.10 from Argentina; 1701.91.10 from the Philippines; 1701.91.42 and 1702.30.22 from Jamaica; 1701.12.05 from Bosnia; and 1702.90.35 from Belize are not eligible for duty-free treatment under GSP; see General Note 4 (d) of the HTS, p15 GSP.

<sup>46</sup> U.S. imports of sugars, syrups, and molasses under heading 1701 and subheadings 1702.90.20 and 2106.90.44 from Antigua and Barbuda, Montserrat, Netherlands Antilles, Saint Lucia, and Saint Vincent and the Grenadines are not eligible for duty-free treatment under CBERA. See General Note 7(d)(i) of the HTS, GNp.20 CBERA.

<sup>47</sup> While Bahrain, Canada, Chile, Israel, Jordan, Korea, Morocco, Oman, and Singapore have duty-free access to subheadings 1704.13.10 and 1704.14.10 under provisions of FTAs, they do not receive country-specific allocations under the WTO TRQ for raw cane sugar covered under HTS subheadings 1701.13.10 and 1701.14.10.

raw sugar price in FY2017 to 124.3 percent in FY2019.<sup>48</sup> Under NAFTA provisions, over-quota imports of sugar from Mexico became eligible for duty-free treatment as of January 1, 2008, thus, without the suspension agreements currently in place, duty-free imports of raw cane sugar from Mexico would not be subject to any quantitative limits. Other countries with special duty rates under these HTS subheading include Bahrain, Chile, Jordan, Oman, and Singapore that have duty-free rates; imports from South Korea currently (2020) are subject to a duty rate of 3.3 cents per kilogram (1.50 cents per pound), and imports from Morocco are subject to a duty rate of 11.2 cents per kilogram (5.08 cents per pound).<sup>49</sup> The CAFTA-DR countries, Peru, Colombia, and Panama have additional TRQ access negotiated through individual FTAs (see details below).

#### **In-quota and over-quota duties under WTO refined sugar TRQ**

Refined sugar imports under the WTO TRQ (HTS subheadings 1701.12.10, 1701.91.10, 1701.99.10) are within the scope of these reviews. These imports are assessed an in-quota general duty rate of 3.6606 cents per kilogram (1.66 cents per pound) based on sugar with a polarimeter reading of 100 degrees. This duty rate is reduced by 0.020668 cent per kilogram (0.009375 cents per pound) for each degree of purity under 100 degrees (and fraction of a degree in proportion) but not less than 3.143854 cents per kilogram.<sup>50</sup> Syrup and molasses imports subject to the WTO TRQ (HTS subheading 1702.90.10 and 2106.90.44) are not within the scope of these reviews.

Other sugar imports in excess of the quota allocations (HTS subheadings 1701.12.50 1701.91.30, 1701.99.30 and 1701.99.50) are within the scope of these reviews. These imports are not subject to quantity limitations but are subject to much higher over-quota duty rates of 35.74 cents per kilogram (16.21 cents per pound). The over-quota duty ranged from 75.3 percent of the world refined sugar price in FY2017 to 106.4 percent in FY2019.<sup>51</sup> Under NAFTA provisions, over-quota imports of these sugar products from Mexico became eligible for duty-free treatment as of January 1, 2008, thus, without the suspension agreements currently in

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<sup>48</sup> USDA Sugar and Sweeteners Yearbook Tables, Table 3b, <https://www.ers.usda.gov/data-products/sugar-and-sweeteners-yearbook-tables.aspx>, retrieved February 3, 2020.

<sup>49</sup> For the most part, these countries are not significant producers or exporters of refined sugar. International Sugar & Sweetener Report, FO Licht, various issues.

<sup>50</sup> The minimum tariff rate of 3.143854 cents per kilogram corresponds to a polarimeter reading of 74.99416 degrees.

<sup>51</sup> USDA Sugar and Sweeteners Yearbook Tables, Table 2, <https://www.ers.usda.gov/data-products/sugar-and-sweeteners-yearbook-tables.aspx>, retrieved February 3, 2020.

place, duty-free imports of these sugar products from Mexico would not be subject to any quantitative limits. Other countries with special duty rates under these HTS subheading include Bahrain, Chile, Jordan, Oman, and Singapore that have duty-free rates; imports from South Korea currently (2020) are subject to a duty rate of 3.5 cents per kilogram (1.59 cents per pound), and imports from Morocco are subject to a duty rate of 11.8 cents per kilogram (5.35 cents per pound).<sup>52</sup>

### **TRQs under other FTAs**

The United States has also committed to provide additional TRQ sugar access in several FTAs; including trade agreements with the CAFTA-DR countries consisting of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua; as well as Chile, Morocco, Peru, Colombia, and Panama.<sup>53</sup> These TRQs include both in-scope and out-of-scope sugar and sugar-containing products. These additional TRQs are, however, subject to net exporter provisions; with duty-free treatment granted to the lesser of the scheduled quantity or the net export balance.<sup>54</sup> USTR annually announces the calculated net export position of each of these countries.<sup>55</sup>

### **TRQs for sugar-containing products**

In addition to TRQs on raw cane sugar and other sugars, syrups, and molasses, USTR annually establishes and publishes a sugar-containing products TRQ.<sup>56</sup> These products are not within the scope of these reviews. The maximum quantity allocated to this TRQ is 64,709 metric tons (71,329 short tons), of which 59,250 metric tons (65,312 short tons) is allocated to

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<sup>52</sup> For the most part, these countries are not significant producers or exporters of refined sugar. International Sugar & Sweetener Report, FO Licht, various issues.

<sup>53</sup> In contrast to the WTO sugar quota year which runs concurrent with the U.S. federal fiscal year, October 1 through September 30; the quota year for these FTA TRQs covers the calendar year, January 1 through December 31.

<sup>54</sup> Quantities in excess of these preferential TRQs are subject to general over-quota duty rates.

<sup>55</sup> Peru, Chile, and Morocco have not met the net exporter provisions since 2015 and thus have not received and have not exported any sugar products under these FTA TRQs. USDA, Sugar and Sweeteners Yearbook, Table 59.

<sup>56</sup> The sugar containing products (“SCP”) TRQ is described in additional U.S. notes 8 to chapter 17 and includes articles containing over 10 percent by dry weight of sugars described in additional U.S. note 3 to chapter 17. The SCP TRQ includes products entered under HTS subheadings 1701.91.54, 1704.90.74, 1806.20.95, 1806.90.55, 1901.10.74, 1901.90.69, 2101.12.51, 2101.20.51, 2106.90.78, and 2106.90.95. These subheadings include flavored/colored sugar, sugar confectionary, and food preparations (e.g., dry powder mixes such as sweetened tea) containing sugar.

Canada.<sup>57</sup> The remainder is allocated on a first-come, first-served basis. SCPs are not generally within the scope of these reviews. Articles from Mexico are not eligible to be imported under these in-quota HTS subheadings.

#### **Other in-scope sugar products**

Other syrups derived from sugarcane and sugar beets and molasses derived from sugarcane for extraction of sugar or human consumption (HTS subheadings 1702.90.40 and 1703.10.30) are not subject to the WTO TRQs but are within the scope of these reviews. The general duty rate on imports under these subheadings is 0.35 cents per liter.<sup>58</sup> Imports of these products are eligible for duty-free treatment under all PTAs and FTAs.

#### **Description and uses<sup>59</sup>**

The products covered by these reviews include sugar derived from sugarcane and sugar beets from Mexico. These sugar products include “raw” sugar (sugar with a sucrose content by weight in a dry state that corresponds to a polarimeter reading of less than 99.5 degrees) and “estandar,” or standard sugar, which is sometimes referred to as “high polarity” or “semi-refined” sugar (sugar with a sucrose content by weight in a dry state that corresponds to a polarimeter reading of 99.2 to 99.6 degrees).<sup>60</sup> Also included are “refined” or white sugar with sucrose content by weight in a dry state that corresponds to a polarimeter reading of 99.9 degrees; brown sugar; liquid sugar (sugar dissolved in water); organic raw sugar, and organic refined sugar. Inedible molasses is not within the scope of these reviews. Certain specialty sugars (caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations) are excluded from the scope of these reviews, as are processed food products that contain sugar (e.g., beverages, candy, and cereals).

Except for fructose-sugar blends (in-scope products classified under HTS subheading 1702.90.40), the sugar found in each of the products covered by these reviews is chemically classified as sucrose, a carbohydrate that occurs naturally in fruits and vegetables. Sucrose is

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<sup>57</sup> 83 FR 48507, September 25, 2018.

<sup>58</sup> HTSUS, Chapter 17, 2020.

<sup>59</sup> Unless otherwise noted, this information is based on Original publication, pp. I-10-I-12.

<sup>60</sup> There is some difference regarding industry terminology and Harmonized System (HS) nomenclature. The HS defines raw sugar as sugar with a polarity reading of less than 99.5 degrees; the remaining sugar falls under the “other” subheading. The sugar industry generally refers to raw sugar as that which requires further processing for human consumption and refined sugar as that which requires no further processing for human consumption, regardless of the polarimeter reading.

found in quantities large enough for commercial extraction in the stalk of sugarcane, a perennial subtropical grass, and in the white root of sugar beets, an annual vegetable which grows in more temperate climates. Sugar beets are usually grown in rotation with other crops to avoid disease and pest problems which occur when two beet crops are grown successively in the same field.

Refined sugar production made from sugarcane (10 to 15 percent sucrose by total weight)<sup>61</sup> is generally a two-stage process. The sugarcane is initially cut and milled to obtain sugar juice. Through a process of filtering, evaporating, and centrifuging the juice, sugar cane mills obtain large sucrose crystals coated with molasses. This intermediate product is normally 90 to 99 percent pure sucrose<sup>62</sup> and is the principle “sugar” product shipped in world trade. This product is typically stored and handled in bulk using heavy machinery that introduces additional impurities. Thus, this “raw” cane sugar is not sold to U.S. consumers because the U.S. Food and Drug Administration (“FDA”) considers it unsuitable for human consumption use, either as food or as an intermediate food ingredient because of the high level of impurities it contains. Consequently, bulk “raw” sugar is sold only to sugar refineries, which further process the sugar through melting, additional filtering, evaporating, and centrifuging, to extract nearly all of the remaining impurities resulting in refined or white sugar. Most U.S. sugar refineries are independent facilities that do not include sugarcane milling operations and some are quite distant from sugarcane mills. Independently located U.S. sugar refineries typically rely on a mix of raw sugar from both domestic and imported sources.<sup>63</sup>

Unlike the two-step process to obtain refined sugar from sugarcane, sugar beets grown in the United States are converted directly into refined sugar in a single facility using a

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<sup>61</sup> Food and Agriculture Organization of the United Nations (“FAO”), Definitions and Classification of Commodities, Sugar Crops and Sweeteners and Derived Products, <http://www.fao.org/es/faodef/fdef03e.htm#3.01>, retrieved January 13, 2020.

<sup>62</sup> Purity of sugar is measured by use of a polarimeter, thus the purity of sugar is described in “degrees.” For example, 95 percent pure cane sugar would be described as “95 degree” polarity sugar.

<sup>63</sup> Of nine U.S. sugar refineries operational at the end of 2019, seven are located independent of sugarcane mills (Baltimore, Maryland; Chalmette, Louisiana; Crockett, California; Yonkers, New York; Savannah, Georgia; Gramercy, Louisiana, and Taylor, Michigan), meanwhile the remaining two are co-located with sugarcane mills (South Bay and Clewiston/Bryant, Florida). International Sugar and Sweetener Report, Plants and Projects Database. The Taylor, Michigan refinery is scheduled to be closed in early 2020. Harrison-Martin, Jackie, “Taylor sugar refinery to close; 100 workers set to be laid off,” News-Herald, Southgate, Michigan, [http://www.thenewsherald.com/news/taylor-sugar-refinery-to-close-workers-set-to-be-laid/article\\_9142abde-0fc4-11ea-964b-f7b6d74b5105.html](http://www.thenewsherald.com/news/taylor-sugar-refinery-to-close-workers-set-to-be-laid/article_9142abde-0fc4-11ea-964b-f7b6d74b5105.html), retrieved January 13, 2020.

continuous process in which no intermediate raw sugar is produced. Sugar beets (13 to 18 percent sucrose by weight)<sup>64</sup> are washed and sliced into cossettes; the cossettes are then immersed in hot water to extract sucrose via osmosis. The sugar juice is treated with lime and carbon dioxide, then filtered, evaporated, crystalized centrifuged, and dried to obtain refined sugar.<sup>65</sup> Sucrose from sugar beets and sugarcane are identical to one another.

Liquid sugar is a saturated aqueous solution of sucrose and water generally containing about 67 percent solids.<sup>66</sup> Liquid sugar may be produced at refineries from high grade refinery liquors prior to crystallization; or, it may be produced from crystalized raw and/or refined sugar. Facilities, commonly known as “melt houses,” produce liquid sugar by melting crystalized raw and/or refined sugar and combining it with water. Some facilities also further purify raw and refined sugar using more sophisticated methods and machinery during the liquid sugar production process. Liquid sugar is most often used in beverage production.<sup>67</sup>

Various brown sugars are also included in the scope of these reviews. Standard brown sugar is made by mixing refined/white sugar with various amount of molasses.<sup>68</sup> Demerara sugar is made by dehydrating cane syrup after it is extracted from sugar cane, turbinado is a partially processed sugar where surface molasses has been washed off, Muscovado sugar is unrefined cane sugar without the molasses removed, and free-flowing brown sugar is regular brown sugar that has undergone a special heating and drying process.<sup>69</sup>

The primary use of sugar in the United States is for human consumption, as a caloric sweetening agent in foods. Among its various applications are use in bakery products, cereals, confections, sauces, and meat curing; use in dairy and ice cream applications; and sales directly to consumers. Most sugar is ultimately sold in pure granulated or powdered sucrose forms. Substantial quantities also reach consumers as liquid sugar, and in forms other than chemically

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<sup>64</sup> Food and Agriculture Organization of the United Nations (“FAO”), Definitions and Classification of Commodities, Sugar Crops and Sweeteners and Derived Products, <http://www.fao.org/es/faodef/fdef03e.htm#3.01>, retrieved January 13, 2020.

<sup>65</sup> Michigan State University (MSU), “The Sugar Beet Industry in Michigan,” <http://geo.msu.edu/extra/geogmich/beetindustry.html>, retrieved January 13, 2020.

<sup>66</sup> Sugar Process Technologies; Liquid Sugar Manufacturing Process, Liquid Sucrose, Liquid Invert, <https://www.sugarprocesstech.com/liquid-sugar/>, retrieved January 13, 2020.

<sup>67</sup> The Sugar Association, “Sugar 101, Sugar Types”, <https://www.sugar.org/sugar/types/>, retrieved January 13, 2020.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

pure sucrose, such as brown sugar and invert sugar syrups,<sup>70</sup> or as sugar blends with glucose or fructose. During calendar-year 2018, 64.2 percent of total U.S. sugar delivered for human consumption was to industrial users, mainly as an ingredient in processed foods.<sup>71</sup> Retail deliveries accounted for 11.4 percent of deliveries in 2018. The remaining deliveries were to wholesale grocers, hotels, restaurants, and other institutional buyers.

## **Manufacturing process<sup>72</sup>**

Although converting sugar beets into refined sugar is a continuous process performed in a single facility, the basic manufacturing steps are similar to the combined operations of milling sugarcane and refining raw cane sugar into a final product. The production of liquid sugar may occur at a sugar refinery or beet factory, at a dedicated facility or “melt house”, or at an end users’ facility. A description of each type of manufacturing process follows.

### **Sugarcane mill**

In a sugarcane mill, harvested sugarcane is crushed, soaked, and squeezed to extract the juice. The leftover pulp (bagasse) is often used as boiler fuel to generate electricity to power the mill. The sugarcane juice is then clarified by adding calcium hydroxide (lime) and carbon dioxide, which trap solid impurities; these solids are then allowed to settle out of the solution. The clarified sugarcane juice is then crystalized and placed into evaporators and high-speed rotating centrifuges, where extra water is evaporated and the sugar is separated from blackstrap molasses (a byproduct sold mainly as animal feed). The final raw sugar product has a characteristic amber color and is sold or transferred to refineries for further processing.

### **Cane sugar refinery**

In the first step of the refining process, raw cane sugar is combined with a solution of molasses and water called “affination syrup.” This mixture, called “magma,” is placed in high-speed rotating centrifuges which separate some of the remaining impurities from raw sugar crystals. The crystals are then melted, run through mesh strainers, and separated from microscopic impurities in a process called “carbonatation.” Now referred to as “liquor,” the

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<sup>70</sup> Inversion is the process by which sucrose is split into its two component sugars, glucose and fructose; the resulting product is invert sugar, a liquid sugar with equal parts glucose and fructose. The Sugar Association, “Sugar 101, Sugar Types”, <https://www.sugar.org/sugar/types/>, retrieved January 13, 2020.

<sup>71</sup> USDA, ERS, Sugar and Sweetener Yearbook Tables, Table 20a, <https://www.ers.usda.gov/data-products/sugar-and-sweeteners-yearbook-tables.aspx>, retrieved January 13, 2020.

<sup>72</sup> Unless otherwise noted, this information is based on Original publication, pp. I-12-I-13.

sugar solution is passed through “sweetland presses” and filtered through granular bits of char which absorb most of the remaining impurities. The final processing steps re-crystallize the sugar and evaporate any excess water, leaving the sugar crystals dry enough to be sorted, packaged, and stored for shipment to customers. A variety of products are produced from this refined sugar, including granulated sugar, specialty sugars (such as brown sugar and powdered sugar), syrups, and molasses.

### **Sugar beet processing**

Unlike sugarcane, sugar beets are processed from the sugar beet directly into refined sugar in a continuous process within the same manufacturing facility.<sup>73</sup> The beets are first sliced into thin strips called “cosettes.” The cosettes are then soaked in hot water to remove sucrose and create “raw juice.” Any leftover sugar beet pulp is pressed into pellets and sold as livestock feed. The sugar juice is then mixed with lime and carbon dioxide to trap and remove solid impurities from the solution. Excess water is removed by evaporators, and the sugar is then crystallized and separated from the rest of the solution, called molasses, by centrifuges. Molasses is sold as an ingredient for animal feed, and to manufacturers for making lysine, baker’s yeast, and other products. At the end of the process, the sugar crystals are dried, cooled, and sorted by crystal size for packaging.

### **Liquid sugar facility**

Liquid sugar is produced at cane sugar refineries, beet sugar factories, melt houses, and end user facilities. The production process depends on the nature of the sugar used as a raw material. Sugar refineries, some other producers, and end-users simply melt previously refined sugar and add water. Some melt houses purify raw cane sugar or lower quality refined sugar that may contain foreign matter using more involved processes such as filtration and ultraviolet light treatment. USDA considers one liquid sugar producer, CSC Sugar LLC, to be a refinery for the purposes of the sugar re-export program.<sup>74</sup> According to a U.S. industry source, in 2014 there were approximately 20 companies operating 38 melt houses in the United States.

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<sup>73</sup> Some facilities may divert and store thick juice, which contains approximately 60 percent sugar, for later processing. However, this practice is not common in the U.S. industry.

<sup>74</sup> USDA, FAS, “Licensees operating under 7 CFR 1530,” undated, <https://apps.fas.usda.gov/sugars/FASSugarsLicensees.aspx>, retrieved February 3, 2020. In the original investigations, the Commission found CSC Sugar to be included in the domestic industry. Original publication, p. 10.

## The industry in the United States

### U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from 25 firms (sugarcane millers, sugarcane refiners, and sugar beet processors) that accounted for all known U.S. production of raw and refined sugar during the period of investigation – October 2011 through September 2014. In addition, the Commission received 87 usable U.S. grower questionnaires from the largest suppliers of sugar beets to the beet processors and sugarcane to the cane millers.<sup>75</sup> In response to the Commission’s notice of institution in these current reviews, domestic interested parties provided lists of hundreds of known and currently operating U.S. sugar cane farmers and sugar beet farmers/growers, as well as approximately 28 cane millers, cane refiners, and sugar beet processors, which are believed to account for all production of sugar in the United States during crop year 2017/18.<sup>76</sup>

### Recent developments

Since the Commission’s original investigations, the following developments have occurred in the United States sugar industry.

#### Acquisitions, mergers, exits, and expansion

Michigan Sugar Company, an agricultural cooperative and the third largest producer of beet sugar in the United States, purchased the assets of AmCane LLC, including a cane sugar refinery in Taylor, Michigan and a packaging and blending facility in Toledo, Ohio.<sup>77</sup> The purchase allowed Michigan Sugar to increase its value-added sales of sugar cane products including: liquid sucrose, Very Low Color (“VLC”) liquid sugar, evaporated cane juice, large/course grain sugar, and boiled brown sugar. In November 2019, however, Michigan Sugar filed a Worker Adjustment and Retraining Notification Act note that it would close the sugar

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<sup>75</sup> Original publication, pp. I-5 and III-1. The 2012 Census of Agriculture identified 3,913 farms growing sugar beets and 666 farms growing sugarcane in the United States. Original publication, p. III-2.

<sup>76</sup> American Sugar’s response to questions from Commission regarding response to notice of institution, January 22, 2020, exh. 1; Imperial Sugar’s response to notice of institution, December 30, 2019, pp. 6-8; and Imperial Sugar’s supplemental response to notice of institution, January 22, 2020, p. 2.

<sup>77</sup> Michigan Farmer, “Michigan Sugar Company acquires assets of AmCane Sugar LLC,” March 8, 2016, <https://www.farmprogress.com/story-michigan-sugar-company-acquires-assets-amcane-sugar-llc-9-138562>, retrieved January 13, 2020.

refining operation.<sup>78</sup> Michigan Sugar closed the refinery because an inconsistent supply chain was exacerbated by an unexpected loss of deep-water port access on the Detroit River. At the time of its closing, the plant was processing about 100,000 tons of raw cane sugar.

In January 2016, Alexander and Baldwin (“A&B”) announced that the 36,000-acre Hawaiian Commercial & Sugar Company (“HC&S”) plantation on the Hawaiian island of Maui would be transitioning out of sugar cane cultivation.<sup>79</sup> This had been the sole sugar operation remaining on Hawaii for the past 16 years. In 2015, the operation experienced losses of \$30 million with additional losses forecast into the future. In January 2019, A&B sold the property to agricultural venture Mahi Pono, which plans to maintain agricultural uses for the land. In its final season, the plantation produced 152,000 STRV of cane sugar.<sup>80</sup>

In late 2016, Western Sugar Cooperative announced that it would cease processing sugar beets at its Torrington, Wyoming facility.<sup>81</sup> The facility last processed sugar beets during the 2018-19 processing season.<sup>82</sup> Upgrades to Western Sugar’s processing plants in Fort Morgan, Colorado and Scotts Bluff, Nebraska facilitated the closing of the Torrington processing plant.<sup>83</sup>

Since 2016, several U.S. sugar refineries and one U.S. sugar beet processing facility have undergone expansion. For the 2018/19 processing year, American Crystal Sugar increased the sugar beet processing capacity at its Drayton, North Dakota plant by 4,000 metric tons (4,409 short tons) per day. The ASR Group increased raw sugar refining capacity at its refineries in Baltimore, Maryland; Chalmette, Louisiana; Crockett, California; and Yonkers, New York by a total of 1,145 metric tons (1,262 short tons) per day. Florida Crystals increased raw sugar

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<sup>78</sup> Galloway, Mitch, Michigan Farm News, “Michigan Sugar to close sugar cane facility in Taylor,” November 20, 2019, <https://www.michiganfarmnews.com/michigan-sugar-to-close-sugar-cane-facility-in-taylor>, retrieved January 13, 2020.

<sup>79</sup> IHS Markit, International Sugar & Sweetener Report, “United States – Hawaii’s last sugarcane plantation to shut down,” January 7, 2016.

<sup>80</sup> USDA, ERS, Sugar and Sweetener Yearbook Tables, table 18, <https://www.ers.usda.gov/data-products/sugar-and-sweeteners-yearbook-tables.aspx>, retrieved February 4, 2020.

<sup>81</sup> IHS Markit, International Sugar & Sweetener Report, “United States – Western Sugar Cooperative prepares to close Wyoming sugar factory,” October 12, 2016.

<sup>82</sup> The Torrington Telegram, “Western Sugar to cut another 101 jobs in Torrington,” January 18, 2019, <https://torringtontelegram.com/article/western-sugar-to-cut-another-101-jobs-in-torrington>, retrieved February 4, 2020.

<sup>83</sup> Milstead, Tom, Torrington Telegram, “Western Sugar closure leaves Torrington wondering,” December 10, 2018, [https://www.wyomingnews.com/news/from\\_the\\_wire/western-sugar-closure-leaves-torringtonwondering/article\\_a9430d06-fb88-11e8-b71e-471bd9c39b6d.html](https://www.wyomingnews.com/news/from_the_wire/western-sugar-closure-leaves-torringtonwondering/article_a9430d06-fb88-11e8-b71e-471bd9c39b6d.html), retrieved February 4, 2020.

refining capacity by 100 metric tons (110 short tons) per day at its South Bay, Florida plant; while Imperial Sugar increased raw sugar refining capacity by 300 metric tons (330 short tons) per day at its Savannah, Georgia plant; and US Sugar increased capacity at its Clewiston, Florida plant by 250 metric tons (275 short tons) per day. Thus, total U.S. raw sugar refining capacity increased by 1,795 metric tons (1,979 short tons) per day since 2016.

Table I-5 summarizes events in the U.S. industry since the last five-year reviews.

**Table I-5**  
**Sugar: Recent developments in the U.S. industry, 2015 to current**

Item	Firm	Event
Expansion	American Crystal Sugar Co.	2019: increased Drayton, ND sugar beet plant capacity from 12,000 to 16,000 metric tons per day
Expansion	ASR Group	2016: increased Baltimore, MD raw sugar refinery capacity from 2,900 to 3,200 metric tons per day
Expansion	ASR Group	2016: increased Chalmette, LA raw sugar refinery capacity from 3,300 to 3,650 metric tons per day
Expansion	ASR Group	2016: increased Crockett, CA raw sugar refinery capacity from 2,605 to 2,900 metric tons per day
Expansion	ASR Group	2016: increased Yonkers, NY raw sugar refinery capacity from 1,900 to 2,100 metric tons per day
Expansion	Florida Crystals Corp.	2016 increased South Bay, FL raw sugar refinery capacity from 1,100 to 1,200 metric tons per day
Closing	Hawaiian Commercial & Sugar Company	2017: closed Puunene, HI sugarcane mill essentially eliminating commercial sugarcane production in Hawaii, plant capacity was 8,700 metric tons per day
Expansion	Imperial Sugar Co.	2016: increased Savannah, GA raw sugar refinery capacity from 2,900 to 3,200 metric tons per day
Closing	The Western Sugar Cooperative	2016: closed Torrington, WY sugar beet plant, plant capacity was 5,500 metric tons per day
Expansion	United States Sugar Corporation	2016 increased Clewiston/Bryant, FL raw sugar refinery capacity from 2,750 to 3,000 metric tons per day
Purchase	AmCane Sugar LLC	2016: Michigan Sugar Company acquired assets of AmCane including a cane sugar refinery in Taylor, MI, and a packaging and blending facility in Toledo, OH
Closing	AmCane Sugar (subsidiary of Michigan Sugar Corporation)	2020: Michigan Sugar submitted official notice (required 60-day notice of closings) to the State of Michigan on November 12, 2019 that it would be closing the AmCane refinery in Taylor, MI, the facility process approximately 100,000 tons of raw sugar annually.

Sources: International Sugar and Sweetener Report | FO Licht, Plant and Projects Database; Harrison-Martin, Jackie, "Taylor sugar refinery to close; 100 workers set to be laid off," News-Herald, Southgate, MI, [http://www.thenewsherald.com/news/taylor-sugar-refinery-to-close-workers-set-to-be-laid/article\\_9142abde-0fc4-11ea-964b-f7b6d74b5105.html](http://www.thenewsherald.com/news/taylor-sugar-refinery-to-close-workers-set-to-be-laid/article_9142abde-0fc4-11ea-964b-f7b6d74b5105.html), retrieved January 13, 2020.

## Factors affecting demand

Various factors suggest that demand for sugar has been decreasing. Beginning in 2016, sugar market analysts were speculating that cane sugar and beet sugar prices were diverging and demand was shifting away from beet sugar toward cane sugar, though the two products are chemically identical.<sup>84</sup> One of the factors thought to be driving this observation was the efforts by some U.S. food manufacturers; including Campbell Soup, General Mills, Kellogg, ConAgra Foods, Hershey, Nestle, and Danone, to move away from ingredients from genetically modified organisms (“GMOs”) or to increase labeling of food products that contain GMOs.<sup>85</sup>

In addition to consumer resistance related to GMOs, consumers are increasingly being advised and actions are being taken to limit intake of added sugar. The American Heart Association has recommended that children ages 2 to 18 should consume less than 6 teaspoons of added sugar per day and consume no more than 8 ounces of sugar-sweetened drinks per week.<sup>86</sup> In addition, voters are increasingly approving taxes and limits on the size of sugar-sweetened beverages.<sup>87</sup> The percentage of American consumers that believe sugar is the most harmful substance to a person’s overall health increased from 15 percent in 2014 to 21 percent in 2018.<sup>88</sup>

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<sup>84</sup> IHS Markit, International Sugar and Sweetener Report, “United States – Rising demand for cane sugar strains US sugar industry,” April 1, 2016; USDA, ERS, “Sugar and Sweeteners Outlook,” *Special Section: Market fundamentals for beet sugar and cane sugar markets presenting differing outlooks compared with the aggregate U.S. sugar market*, November 16, 2016.

<sup>85</sup> Nearly all U.S. sugar beets are grown from genetically modified seed whereas no varieties of sugar cane used in the U.S. are genetically modified. IHS Markit, International Sugar and Sweetener Report, “United States – Yogurt maker Dannon considers ways to cut more sugar, switches to non-GMO,” July 19, 2016; IHS Markit, International Sugar and Sweetener Report, “United States – ConAgra next in line to disclose GMOs on labels, March 23, 2016; IHS Markit, International Sugar and Sweetener Report, “United States – Campbell to label GMO Ingredients” January 18, 2016; IHS Markit, International Sugar and Sweetener Report, “United States – Big food companies at odds with farmers over GMO labelling, July 4, 2018; IHS Markit, International Sugar and Sweetener Report, “United States – Beet industry wonders whether switch to GMO sugar beet may backfire,” January 5, 2016.

<sup>86</sup> IHS Markit, International Sugar and Sweetener Report, “United States – AHA guidelines get stricter about added sugar intake for kids 2-18, August 31, 2016.

<sup>87</sup> IHS Markit, International Sugar and Sweetener Report, “United States – Voters pass soda taxes in five communities,” November 9, 2019.

<sup>88</sup> IHS Markit, International Sugar and Sweetener Report, “United States – Americans consider sugar more dangerous than marijuana,” January 29, 2018.

## U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year reviews.<sup>89</sup> Table I-6 presents a compilation of the data submitted from all responding U.S. producers as well as trade and financial data submitted by U.S. producers in the original investigations.

**Table I-6**

**Sugar: Trade and financial data submitted by U.S. processors and U.S. refiners, 2011/12-13/14, and 2017/18**

Item	2011/12	2012/13	2013/14	2017/18
Capacity (1,000 STRV)	***	***	***	***
Production (1,000 STRV)	***	***	***	***
Capacity utilization (percent)	***	***	***	***
U.S. shipments:				
Quantity (1,000 STRV)	***	***	***	***
Domestically grown sugar value (1,000 dollars)	***	***	***	NA
Additional U.S. value on imported sugar (1,000 dollars)	***	***	***	NA
Total U.S. producers' domestic value (1,000 dollars)	***	***	***	***
Net sales (\$1,000)	***	***	***	***
COGS (\$1,000)	***	***	***	***
COGS/net sales (percent)	***	***	***	***
Gross profit (loss) (\$1,000)	***	***	***	***
SG&A expenses (loss) (\$1,000)	***	***	***	***
Operating income (loss) (\$1,000)	***	***	***	***
Operating income (loss)/net sales (percent)	***	***	***	***

Note: For a discussion of data coverage, please see "U.S. producers" section.

Source: For the years 2011/12-13/14, data are compiled using data submitted in the Commission's original investigations. See *app. C*. For the year 2017/18, data are compiled using data submitted by domestic interested parties. American Sugar's response to questions from Commission regarding response to notice of institution, January 22, 2020, exh. 2b; and Imperial Sugar's response to notice of institution, December 30, 2019, exh. 1.

## Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product

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<sup>89</sup> Individual company trade and financial data are presented in *app. B*.

constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if “appropriate circumstances” exist.<sup>90</sup>

In its original determinations, the Commission defined a single domestic like product consisting of all sugar that is coextensive with Commerce’s scope and it defined the domestic industry as all U.S. producers of sugar within Commerce’s scope, including sugarcane and sugar beet farmers/growers, as well as cane millers, cane refiners, and sugar beet processors, but did not include one firm (Archer Daniels Midland Company) because it did not engage in sufficient production-related activities.<sup>91</sup> In crop year 2017/18, Imperial Sugar’s subsidiary accounted for \*\*\* percent of total subject imports from Mexico and its subject imports were equivalent to \*\*\* percent of the quantity of its U.S. production of sugar. In crop year 2017/18, American Sugar Refining, Inc. accounted for \*\*\* percent of total subject imports from Mexico and its subject imports were equivalent to \*\*\* percent of the quantity of its U.S. production of sugar.<sup>92</sup>

## **U.S. imports and apparent U.S. consumption**

### **U.S. importers**

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from 14 firms, which accounted for approximately 76.2 percent of total U.S. imports of sugar from Mexico between October 2011 and September 2014.<sup>93</sup> Import data presented in the original investigations are based on official import data. Although the Commission did not receive responses from any respondent interested parties in these current reviews, in their responses to the Commission’s notice of institution, the domestic interested parties provided a list of almost 100 potential U.S. importers of sugar.<sup>94</sup>

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<sup>90</sup> Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

<sup>91</sup> 84 FR 65841, November 29, 2019; Original publication, p. 10.

<sup>92</sup> Derived from Imperial Sugar’s response to notice of institution; December 30, 2019, exh. 1; and American Sugar’s response to questions from commission regarding response to notice of institution, January 22, 2020, pp. 3 and 39.

<sup>93</sup> Original publication, p. IV-1.

<sup>94</sup> Imperial Sugar’s response to notice of institution, December 30, 2019, pp. 8-9; and American Sugar’s response to the notice of institution, December 30, 2019, exh. 13.

## U.S. imports

Table I-7 presents the quantity, value, and unit value of U.S. imports from Mexico as well as the other top sources of U.S. imports (shown in descending order of 2018 imports by quantity).

**Table I-7**  
**Sugar: U.S. imports, 2014-18**

Item	2014	2015	2016	2017	2018
	<b>Quantity (1,000 STRV)</b>				
Mexico	1,576	1,581	1,269	1,073	1,191
Subtotal, subject	1,576	1,581	1,269	1,073	1,191
Brazil	246	303	326	143	219
Dominican Republic	120	195	196	195	196
Guatemala	144	84	129	128	169
Philippines	105	67	149	212	126
Colombia	95	79	84	94	89
El Salvador	96	78	73	54	70
Australia	97	124	112	150	55
All other imports	570	588	633	556	440
Subtotal, nonsubject	1,472	1,517	1,704	1,532	1,364
Total imports	3,048	3,097	2,973	2,605	2,555
	<b>Landed, duty-paid value (\$1,000)</b>				
Mexico	759,759	806,130	679,199	614,414	648,622
Subtotal, subject	759,759	806,130	679,199	614,414	648,622
Brazil	131,365	164,014	171,346	75,890	109,896
Dominican Republic	54,930	102,310	94,549	103,541	103,906
Guatemala	66,330	40,234	65,434	67,335	86,984
Philippines	46,284	31,190	72,870	110,371	64,538
Colombia	57,468	51,316	56,445	65,697	61,328
El Salvador	42,278	34,318	38,570	29,920	31,642
Australia	47,190	59,263	59,797	78,056	28,023
All other imports	321,869	325,923	358,491	314,318	235,790
Subtotal, nonsubject	767,715	808,568	917,500	845,128	722,106
Total imports	1,527,474	1,614,697	1,596,699	1,459,542	1,370,728

Table continued on next page.

**Table I-7—Continued**  
**Sugar: U.S. imports, 2014-18**

Item	2014	2015	2016	2017	2018
	<b>Unit value (dollars per STRV)</b>				
Mexico	482	510	535	573	545
Subtotal, subject	482	510	535	573	545
Brazil	534	541	525	531	501
Dominican Republic	457	526	481	531	531
Guatemala	461	479	506	528	515
Philippines	442	465	489	521	511
Colombia	605	650	670	695	693
El Salvador	441	442	525	553	450
Australia	488	479	534	520	512
All other imports	565	554	566	565	536
Subtotal, nonsubject	522	533	538	552	529
Total imports	501	521	537	560	537

Note: Because of rounding, figure may not add to total shown.

Note: All import data are reported on a raw value basis. HTS items identified as refined or specialty sugars were converted to a raw basis by multiplying by 1.07 (for all countries except Mexico for which a 1.06 conversion factor was used). HTS items identified as raw sugar were not converted. This method may slightly understate the true raw basis of these imports, since some product entering as raw sugar in the HTS may have a polarity level less than 99.5 (the HTS definition of raw sugar) but more than 93.0 degrees (the polarity for which raw sugar converts to 100 percent refined sugar using the 1.07 conversion rate).

Source: Compiled from official Commerce statistics for HTS statistical reporting numbers 1701.11.1000 (historical), 1701.11.5000 (historical), 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010 1701.99.1020 (historical), 1701.99.1025, 1701.99.1030 (historical), 1701.99.1050, 1701.99.5010 1701.99.5020 (historical), 1701.99.5025, 1701.99.5030 (historical), 1701.99.5050, 1702.90.4000, and 1703.10.3000.

## **Apparent U.S. consumption and market shares**

Table I-8 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

**Table I-8**

**Sugar: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 2011/12-13/14, and 2017/18**

Item	2011/12	2012/13	2013/14	2017/18
	<b>Quantity (1,000 STRV)</b>			
U.S. producers' U.S. shipments	***	***	***	***
U.S. imports from—				
Mexico	1,060	2,066	2,013	1,191
All other sources	1,850	891	1,030	1,364
Total imports	2,910	2,957	3,043	2,555
Apparent U.S. consumption	***	***	***	***
	<b>Value (1,000 dollars)</b>			
U.S. producers' U.S. -- shipments				
Domestically grown sugar	***	***	***	NA
Additional U.S. value on imported sugar	***	***	***	NA
Total value attributable to refiners and processors:	***	***	***	***
U.S. imports from—				
Mexico	849,302	1,042,073	944,524	648,622
All other	1,298,565	493,989	489,740	722,106
Total imports	2,147,867	1,536,063	1,434,264	1,370,728
Apparent U.S. consumption	***	***	***	***

Table continued on next page.

**Table I-8—Continued**

**Sugar: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 2011/12-13/14, and 2017/18**

Item	Share of consumption based on quantity (percent)			
	2011/12	2012/13	2013/14	2017/18
<b>Share of consumption based on quantity (percent)</b>				
U.S. producer's share	***	***	***	***
U.S. imports from.--				
Mexico	***	***	***	***
All other sources	***	***	***	***
Total imports	***	***	***	***
<b>Share of consumption based on value (percent)</b>				
U.S. producers' U.S. shipments.-- Domestically grown sugar	***	***	***	NA
Additional U.S. value on imported sugar	***	***	***	NA
Total U.S. producers' domestic value	***	***	***	***
U.S. imports from.--				
Mexico	***	***	***	***
All other sources	***	***	***	***
Total imports	***	***	***	***

Note: The total value attributable to refiners and processors figure for CY 2018/19 is based on the total value provided by domestic interested parties. The parties did break out the total value of shipments by domestically grown versus imported sugar but did not provide the value added by the U.S. producers to the imported sugar. The value cited, therefore, likely includes imported sugar value.

Note: For a discussion of data coverage, please see the "U.S. producers" and "U.S. importers" sections.

Source: For the years 2011/12-13/14, data are compiled using data submitted in the Commission's original investigations. See app. C. For the year 2018/19, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using 2018 official Commerce statistics under HTS statistical reporting numbers 1701.11.1000 (historical), 1701.11.5000 (historical), 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010 1701.99.1020 (historical), 1701.99.1025, 1701.99.1030 (historical), 1701.99.1050, 1701.99.5010 1701.99.5020 (historical), 1701.99.5025, 1701.99.5030 (historical), 1701.99.5050, 1702.90.4000, and 1703.10.3000. U.S. import statistics were converted from kilograms to 1,000 STRV.

## The industry in Mexico

During the final phase of the original investigations, the Commission received questionnaires from 17 producers or producer groups and exporters of sugar in Mexico. These firms' exports to the United States accounted for approximately 98.1 percent of U.S. imports of sugar from Mexico over the period examined in the original investigations and more than 97 percent of overall production of sugar in Mexico in crop year 2013/14.<sup>95</sup> Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested parties provided a list of 80 possible producers of sugar in Mexico.<sup>96</sup>

Table I-9 presents events in the Mexican industry since the last five-year reviews.

**Table I-9**  
**Sugar: Recent developments in the Mexican industry**

Item	Firm	Event
Expansion	Grupo PIASA	2016: Increased San Luis mill sugar cane crush capacity from 7,200 to 8,500 metric tons per day
Expansion	Grupo ZUCARMEX	2016: Increased Coatepec mill sugar cane crush capacity from 2,700 to 2,900 metric tons per day
Expansion	Grupo ZUCARMEX	2016: Increased Melchor Ocampo mill sugar cane crush capacity from 6,500 to 7,250 metric tons per day
Expansion	Pantalean	2016: Increased Zapoapita-Panuco mill sugar cane crush capacity from 8,500 to 10,000 metric tons per day
Acquisition	State Government of Veracruz	Announced March 2017: The State Government of Veracruz offered the La Concepcion mill for sale and is considering selling four other State-owned sugar mills
Acquisition	Beta San Miguel	Announced September 2016: Beta San Miguel, Mexico's largest sugar group, acquired the El Potrero and San Miquelito sugar mills from the Government of Mexico

Sources: Sources: International Sugar and Sweetener Report | FO Licht, Plant and Projects Database; IHS Markit, International Sugar and Sweetener Report, "Mexico – Beta San Miguel acquires remaining state-owned sugar mills," September 1, 2016; IHS Markit, International Sugar and Sweetener Report, "Mexico – State to sell La Concepcion mill," March 7, 2017.

<sup>95</sup> Original publication, p. VII-6.

<sup>96</sup> American Sugar's response to the notice of institution, December 30, 2019, exh. 14; Imperial Sugar's supplemental response to the notice of institution, January 22, 2020, pp. 4-5.

Table I-10 presents the Mexico production, capacity, and exports to the United States of sugar during 2018/19 (as provided by domestic interested party American Sugar in its response), as well as data compiled in the original investigations for 2011/12, 2012/13, and 2013/14.

**Table I-10**

**Sugar: Data on industry in Mexico, crop years 2011/12 through 2013/14, and 2018/19**

Item	2011/12	2012/13	2013/14	2018/19
Capacity (1,000 STRV)	8,120	8,538	8,411	8,966
Production (1,000 STRV)	5,570	7,695	6,591	7,288
Capacity utilization (percent)	68.6	90.1	78.4	81.3
Exports to the United States:				
Quantity (1,000 STRV)	817	2,255	1,969	2,075

Source: For the years 2011/12-13/14, data are compiled using data submitted in the Commission's original investigations. See app. C. For the year 2018/19, data are compiled and derived using data submitted by domestic interested parties. American Sugar's response to the notice of institution, December 30, 2019, p. 27.

Table I-11 presents export data for raw and refined sugar, a category that includes in-scope sugar and out-of-scope sugar products, from Mexico (by export destination in descending order of quantity for 2018 (data for 2019 are not yet available)). In-scope product, molasses, classified under 1703.10 is not included in this table. During 2015-18, Mexico exported an average of 147.2 short tons of molasses; the top destinations included the United States (89.6 short tons), the European Union (34.2 short tons) and Puerto Rico (14.7 short tons).<sup>97</sup>

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<sup>97</sup> USDA sugar solids content for molasses includes all sugars in addition to sucrose, thus conversion would not be comparable to raw sugar based on sucrose content. USDA, ERS, "Weights, Measures, and Conversion Factors for Agricultural Commodities and Their Products", Agricultural Handbook Number 697, Washington DC, June 1992.

**Table I-11**  
**Raw and refined sugar: Exports from Mexico, by destination, 2014-18**

Item	Calendar year			
	2015	2016	2017	2018
	<b>Quantity (1,000 STRV)</b>			
United States	1,540	1,250	1,061	1,294
Morocco	37	--	--	148
Canada	78	34	106	42
Venezuela	0	3	24	35
Tunisia	--	--	--	25
Algeria	--	--	--	17
Puerto Rico (U.S.)	18	30	4	3
Uruguay	1	1	1	2
Colombia	1	1	1	1
EU	0	1	0	1
All others	56	110	64	1
Total	1,732	1,430	1,261	1,568

Note: Because of rounding, figures may not add to totals shown. Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Note: 2019 data are not complete; one ton of refined sugar equals 1.06 tons of raw sugar for Mexico, one metric ton equals 1.10231125 short tons.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HTS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, and 1702.90. In-scope product classified under 1703.10 is not included in these calculations. The data presented may be overstated as HTS subheadings 1701.13 and 1701.99 may contain products outside the scope of these reviews.

## **Antidumping or countervailing duty orders in third-country markets**

Based on available information, sugar from Mexico has not been subject to other antidumping or countervailing duty investigations outside the United States.

### **The global market**

Brazil is by far the largest exporter of sugar globally. Global sugar production has recently exceeded global sugar consumption, driving down prices. Many Brazilian sugar mills are co-located with ethanol production facilities, thus, when the ratio of sugar to ethanol prices is below a certain level, Brazilian sugar producers will divert cane juice from sugar production to ethanol production, thus decreasing supply and exports of sugar. Thailand and India provide substantial subsidies to sugar cane growers and thus have increased production and exports recently, despite low international prices.

Table I-12 presents global export data for raw and refined sugar classified under HTS 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99, a category that includes sugar and out-of-scope products, (by source in descending order of quantity for 2018).

**Table I-12**  
**Raw and refined sugar: Global exports by major sources, 2015-18**

Item	2015	2016	2017	2018
<b>Quantity (1,000 STRV)</b>				
Brazil	26,876,689	32,302,232	32,073,225	23,744,468
Thailand	8,712,606	6,874,862	6,668,774	10,560,572
EU28	1,687,641	1,729,247	2,680,922	3,964,088
India	3,654,793	3,897,541	2,356,733	3,116,045
Guatemala	2,356,849	2,290,819	2,113,703	1,898,140
Mexico	1,731,823	1,429,931	1,261,218	1,568,009
South Africa	663,189	284,854	655,757	1,203,540
Colombia	914,201	592,679	822,877	870,165
China	477,149	657,380	710,507	779,722
Ukraine	135,453	549,380	707,617	690,447
All other	5,050,160	5,849,733	5,912,740	4,313,675
Total	52,260,551	56,459,110	55,964,073	52,708,871

Note: Because of rounding, figures may not add to total shown.

Note: 2019 data are not complete; one ton of refined sugar equals 1.06 tons of raw sugar for Mexico, 1.07 tons of raw sugar for all other countries; one metric ton equals 1.10231125 short tons.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HTS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99. These data may be overstated as HTS subheadings 1701.14 and 1701.99 may contain products outside the scope of these reviews.

**APPENDIX A**

***FEDERAL REGISTER NOTICES***



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
84 FR 65841, November 29, 2019	<i>Sugar From Mexico; Institution of Five-Year Reviews</i>	<a href="https://www.federalregister.gov/documents/2019/11/29/2019-25873/sugar-from-mexico-institution-of-five-year-reviews">https://www.federalregister.gov/documents/2019/11/29/2019-25873/sugar-from-mexico-institution-of-five-year-reviews</a>
84 FR 66153, December 3, 2019	<i>Initiation of Five-Year (Sunset) Review; Correction</i>	<a href="https://www.federalregister.gov/documents/2019/12/03/2019-25653/initiation-of-five-year-sunset-review-correction">https://www.federalregister.gov/documents/2019/12/03/2019-25653/initiation-of-five-year-sunset-review-correction</a>



**APPENDIX B**  
**COMPANY-SPECIFIC DATA**



**RESPONSE CHECKLIST FOR U.S. PRODUCERS**

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**RESPONSE CHECKLIST FOR U.S. IMPORTERS FROM MEXICO**

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**APPENDIX C**

**SUMMARY DATA COMPILED IN ORIGINAL INVESTIGATIONS**



**Table C-1**

**Sugar: Summary data concerning the U.S. market, crop years 2011/12 through 2013/14**

(Quantity=1,000 STRV; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per STRV; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	Crop year			Comparison years		
	2011/12	2012/13	2013/14	2011/12- 2013/14	2011/12- 2012/13	2012/13- 2013/14
<b>U.S. consumption quantity:</b>						
Amount.....	***	***	***	***	***	***
Producers' share (fn1).....	***	***	***	***	***	***
Importers' share (fn1):						
Mexico.....	***	***	***	***	***	***
All others sources.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
<b>U.S. consumption value:</b>						
Amount.....	***	***	***	***	***	***
Producers' share (fn1):						
Fully domestic value.....	***	***	***	***	***	***
Value added to imports.....	***	***	***	***	***	***
Total value for refiners and processors.....	***	***	***	***	***	***
Importers' share (fn1):						
Mexico.....	***	***	***	***	***	***
All others sources.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
<b>U.S. imports from:</b>						
<b>Mexico:</b>						
Quantity.....	1,060	2,066	2,013	89.9	94.9	(2.6)
Value.....	849,302	1,042,073	944,524	11.2	22.7	(9.4)
Unit value.....	\$801	\$504	\$469	(41.4)	(37.0)	(7.0)
Ending inventory quantity.....	***	***	***	***	***	***
<b>All other sources:</b>						
Quantity.....	1,850	891	1,030	(44.3)	(51.8)	15.6
Value.....	1,298,565	493,989	489,740	(62.3)	(62.0)	(0.9)
Unit value.....	\$702	\$554	\$475	(32.3)	(21.0)	(14.2)
Ending inventory quantity.....	***	***	***	***	***	***
<b>Total imports:</b>						
Quantity.....	2,910	2,957	3,043	4.6	1.6	2.9
Value.....	2,147,867	1,536,063	1,434,264	(33.2)	(28.5)	(6.6)
Unit value.....	\$738	\$519	\$471	(36.1)	(29.6)	(9.3)
Ending inventory quantity.....	***	***	***	***	***	***
<b>U.S. processors' and U.S. refiners':</b>						
Average capacity quantity.....	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***
Capacity utilization (fn1).....	***	***	***	***	***	***
<b>U.S. shipments:</b>						
<b>Fully domestic origin shipments:</b>						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
<b>Additional value on sugar imported from Mexico:</b>						
Quantity.....	***	***	***	***	***	***
Value attributable to imports from MX.....	***	***	***	***	***	***
Value captured by domestic firms.....	***	***	***	***	***	***
Value of shipped merchandise.....	***	***	***	***	***	***
Unit value attributable to imports MX.....	***	***	***	***	***	***
Unit value captured by domestic firms.....	***	***	***	***	***	***
Unit value of shipped merchandise.....	***	***	***	***	***	***
<b>Additional value on sugar imported from other sources:</b>						
Quantity.....	***	***	***	***	***	***
Value attributable to imports AOS.....	***	***	***	***	***	***
Value captured by domestic firms.....	***	***	***	***	***	***
Value of shipped merchandise.....	***	***	***	***	***	***
Unit value attributable to imports AOS.....	***	***	***	***	***	***
Unit value captured by domestic firms.....	***	***	***	***	***	***
Unit value of shipped merchandise.....	***	***	***	***	***	***
<b>Total value attributable to refiners and processors:</b>						
Value.....	***	***	***	***	***	***
<b>Export shipments:</b>						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***

Table continued next page.....

**Table C-1--Continued**

**Sugar: Summary data concerning the U.S. market, crop years 2011/12 through 2013/14**

(Quantity=1,000 STRV; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per STRV; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	Crop year			Comparison years		
	2011/12	2012/13	2013/14	2011/12- 2013/14	2011/12- 2012/13	2012/13- 2013/14
U.S. processors and U.S. refiners:--Continued.....						
Ending inventory quantity.....	***	***	***	***	***	***
Inventories/total shipments (fn1).....	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***
Wages paid (\$1,000).....	***	***	***	***	***	***
Productivity (short tons per 1,000 hours).....	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***
Net Sales:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Cost of goods sold (COGS).....	***	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***	***
SG&A expenses.....	***	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***	***
Net income or (loss).....	***	***	***	***	***	***
Capital expenditures.....	***	***	***	***	***	***
Unit COGS.....	***	***	***	***	***	***
Unit SG&A expenses.....	***	***	***	***	***	***
Unit operating income or (loss).....	***	***	***	***	***	***
Unit net income or (loss).....	***	***	***	***	***	***
COGS/sales (fn1).....	***	***	***	***	***	***
Operating income or (loss)/sales (fn1).....	***	***	***	***	***	***
Net income or (loss)/sales (fn1).....	***	***	***	***	***	***
U.S. millers:						
Average capacity quantity.....	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***
Capacity utilization (fn1).....	***	***	***	***	***	***
U.S. shipments:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Export shipments:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
Inventories/total shipments (fn1).....	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***
Wages paid (\$1,000).....	***	***	***	***	***	***
Productivity (short tons per 1,000 hours).....	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***
Net Sales:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Cost of goods sold (COGS).....	***	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***	***
SG&A expenses.....	***	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***	***
Net income or (loss).....	***	***	***	***	***	***
Capital expenditures.....	***	***	***	***	***	***
Unit COGS.....	***	***	***	***	***	***
Unit SG&A expenses.....	***	***	***	***	***	***
Unit operating income or (loss).....	***	***	***	***	***	***
Unit net income or (loss).....	***	***	***	***	***	***
COGS/sales (fn1).....	***	***	***	***	***	***
Operating income or (loss)/sales (fn1).....	***	***	***	***	***	***
Net income or (loss)/sales (fn1).....	***	***	***	***	***	***

fn1.--Reported data are in percent and period changes are in percentage points.

Source: Compiled from data submitted in response to Commission questionnaires and official U.S. imports statistics. See parts III, IV, and VI for details.

**APPENDIX D**  
**PURCHASER QUESTIONNAIRE RESPONSES**



As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following five firms as the top purchasers of sugar: \*\*\*. Purchaser questionnaires were sent to these five firms and two firms (\*\*\*) provided responses which are presented below.

1. Have there been any significant changes in the supply and demand conditions for sugar that have occurred in the United States or in the market for sugar in Mexico since January 1, 2015?

<b>Purchaser</b>	<b>Changes that have occurred</b>
***	***
***	***

2. Do you anticipate any significant changes in the supply and demand conditions for sugar in the United States or in the market for sugar in Mexico within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Anticipated changes</b>
***	***
***	***

