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Pre-Hearing Brief of the Sweetener Users Association

Submitted to the

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. TA-131-034 and TA 2104-026

U.S.-Trans-Pacific Free Trade Agreement: Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports

February 18, 2010

The Sweetener Users Association (SUA) appreciates the opportunity to offer these comments to the United States International Trade Commission (ITC) on the U.S.-Trans-Pacific Free Trade Agreement (TPP). SUA members are the companies that use nutritive sweeteners in their confectionery, bakery, cereal, beverage, dairy product, and food manufacturing operations, as well as trade associations representing those same industries.

Of the seven countries participating in the TPP negotiations with the United States, only two – Australia and Peru – are currently exporting sugar to the U.S. under World Trade Organization (WTO) commitments. Both of these countries currently face a sugar tariff-rate quota (TRQ) that restricts their ability to export sugar to the U.S. The U.S. already has free trade agreements with both countries, but political pressure led to the unfortunate exclusion of sugar from the U.S.-Australian Free Trade Agreement, while the U.S.-Peru Free Trade Agreement contains a "net exporter" provision that currently keeps Peru from exporting any sugar to the U.S. beyond its WTO allocation.

This statement will describe why we believe it is in the interest of the United States to implement a TPP that includes sugar. The sugar-using sector has lost jobs under a U.S. policy on sugar that is now causing domestic prices to reach a 29-year record high. Without additional sugar imports from TPP countries, U.S. sugar users and consumers can expect few opportunities for relief from an oppressive sugar import regime that has been implemented to limit the availability of sugar in the U.S. market. The statement will also address certain claims made on behalf of the U.S. sugar industry and explain why we believe these claims are erroneous or overstated.

Current U.S. Sugar Policies

The primary mechanism for limiting U.S. sugar imports is the TRQ on raw and refined sugar. In-quota imports are subject to a low tariff, and indeed most in-quota imports enter duty-free because of various trade preference programs and free trade agreements.

Over-quota imports are subject to tariffs designed to be prohibitive. The MFN over-quota tariff for raw sugar is 15.82 cents per pound (imports from Mexico enter the U.S. duty-free). If imports subject to the MFN tariff began to increase, an additional safeguard tariff would be applied in all cases where the cost, insurance and freight (CIF) value of imported sugar was 11.5 cents per pound or less. Although world sugar market prices are now at abnormally high levels and the safeguard tariff would not apply, present market conditions are likely anomalous. Therefore, in normal markets, current protection for sugar is even greater than the high over-quota tariff would imply – it is, in fact, nearly absolute.

The border protection afforded by the TRQ makes possible a price support program in which processors (not producers) receive loans at a current rate of 18.25 cents per pound of raw cane sugar, and 23.45 cents per pound of refined beet sugar. Needless to say, these loan rates are usually in excess of world prices (although the present turbulent world market is an exception), and can only be offered without enormous government cost because world-priced sugar is effectively barred from the U.S. market. Under the loan program, processors may forfeit sugar pledged as collateral for a loan in full settlement of the loan. Processors will only take this action when market prices are near or below the loan rate plus accrued costs.

Under the farm bill, the U.S. sugar support system imposes marketing allotments on domestic cane and beet sugar processors. These allotments are legal limitations on the quantity of sugar that may legally be sold. They operate in a manner equivalent to production controls, with the aim of reducing output and holding supplies off the market.

Sugar Must Be Included in the TPP to Avoid Future Consequences

We believe it is imperative that the TPP include sugar, and indeed all products. Under the General Agreement on Tariffs and Trade 1994, a basic condition for a trade agreement is that "the duties and other restrictive regulations of commerce … are eliminated on *substantially all the trade* between the constituent territories in products originating in such territories." (Art. XXIV (8) (b); emphasis added)

Of the countries participating in the TPP negotiations, Australia is a leading sugar exporter and Peru is a significant sugar producer, while the other TPP countries are not in a position to produce sugar for export. If the U.S. fails to push for a comprehensive TPP, it will further encourage our trading partners to exclude market access for commodities of interest to the United States.

Since the U.S.-Australia FTA did *not* include sugar, the precedent led South Korea to successfully seek the exclusion of U.S. rice from the U.S.-South Korea FTA. U.S. trade negotiators would be wise not to repeat this mistake again by seeking to carve out certain commodities for exclusion from the TPP and instead seek a comprehensive agreement that is in the best interest of the United States rather than a single special interest.

Current U.S.-Peru FTA

The other potential sugar exporter to the United States under the TPA is Peru. The new U.S.-Peru Free Trade Agreement only provides minimal additional market access to the U.S. sugar market, but it preserves the principal of the U.S. negotiating comprehensive market access free trade agreements. The agreement provides an additional U.S. TRQ for 11,000 metric tons of sugar imports from Peru in the first year of the agreement as follows, if Peru is determined to be a net exporter:

- 2,000 metric tons of total imports are for specialty sugars that are to enter on a first-come, first served basis (specialty sugars include organic sugar, brown slab sugar, pearl sugar, vanilla sugar, rock candy, fondant, caster sugar, golden syrup, golden granulated sugar, cake decorations, and sugar cubes); and
- 9,000 tons of raw sugar that is not specialty sugar (this TRQ grows by 2% a year in perpetuity, so the annual increase in the raw sugar TRQ is 180 metric tons).

Job Losses from the Sugar Program

The U.S. sugar program is causing significant and continuing job losses in our food and beverage manufacturing industries and the U.S. Department of Agriculture has recently added to the economic stress on the sugar-using sector by refusing to acknowledge the need for allowing additional sugar imports. In just eight years, between 1997 and 2005, the overall impact on employment in sugar-using industries is a loss of more than 75,000 jobs.

According to a Department of Commerce study mandated by Congress in 2005, artificially high sugar prices (caused by limits on sugar imports and high domestic prices) were "a major factor" in the loss of 10,000 jobs in the confectionery sector alone, as U.S. candy-makers shift production overseas to take advantage of lower sugar prices. Commerce stated that for every sugar-producing job preserved by the sugar program, three manufacturing jobs were lost.

Furthermore, two-thirds of the cane refining jobs have also been eliminated since the sugar program began in 1981. Since the current program began in 1981, the number of U.S. cane refineries has fallen from 23 to 8, and now there is only one remaining independent cane refiner in the United States.

Benefits of Sugar Trade Liberalization

SUA believes the following positive effects would result from a comprehensive TPP that includes all commodities including sugar:

- American workers would benefit because one of the most unfortunate effects of current sugar policy – its tendency to encourage the movement of food manufacturing offshore – would be at least somewhat mitigated. For several years, it has been apparent that the wide gap between U.S. and world sugar prices has generated increasing imports of hard candy and other sugar-containing products not subject to quotas. Increasingly, U.S. companies have been forced to move manufacturing offshore in order to deal with this competition.

- Consumers would benefit. Sugar is among the most widely used food ingredients, and a reduction in its cost through more liberal trade will reduce costs and increase choices for consumers. Low-income Americans, who spend a disproportionate share of their incomes on food, would enjoy the greatest relative benefit.
- The consumer benefits would occur over time and in the context of many other factors that determine the cost of foodstuffs. The benefits would not only take the form of price reductions, but would also (or alternatively) be reflected in larger product sizes, more product innovation, and constant pricing where non-sugar costs might be rising and the lower sugar price allowed price increases to be deferred or averted.
- The nearly-extinct independent cane refining sector would get much-needed relief. Only one major independent cane refiner remains; all the others have either gone out of business or been acquired by sugar processing companies, in an often-ignored example of the agricultural concentration that worries so many policy makers when it occurs in other commodities. Cane refiners would enjoy additional throughput from expanded and timely access to imports.
- Sugar users would derive benefits in a variety of ways besides the obvious cost savings. Maintaining sugar-containing product manufacturing facilities in the United States would become more viable. The number of potential suppliers would increase, encouraging more competition than at present. And the greater availability and affordability of sugar, by increasing the profitability of sugar-containing products, would encourage new product development, giving consumers more choices.
- Producers, processors and exporters of other U.S. agricultural commodities would benefit. If the United States is willing to reduce its own trade barriers, our nation is in a better position to insist that the seven TPP trading partners do likewise. By contrast, if we insist that sugar or other products are "off the table," we must expect that the TPP countries will also refuse full liberalization in some sectors, agricultural or non-agricultural, and the expected gains in U.S. exports may never come about.

The Importance of Comprehensive Trade Agreements

SUA believes that if the United States is going to pursue bilateral or regional trade agreements – a wise course of action in light of the slow-moving of the Doha Development Round of World Trade Organization talks – then other trade agreements should be comprehensive in nature. We hold this belief for several reasons:

1. The General Agreement on Tariffs and Trade 1994 requires that trade agreements cover **"substantially all trade."**
2. **When one negotiating party removes an import-sensitive product from negotiation, it gives license to the other party or parties to do likewise.** Those items import-sensitive to TPP partner countries are likely to be potential growth opportunities for American producers.

3. Enhanced access to the products of our TPP partners will **confer a number of benefits on a wide variety of industries** and sectors in the U.S. economy.
4. Finally, a **comprehensive agreement TPP sends a positive signal to future trading partners.** Since trade is a two-way street, this agreement demonstrates that the United States will not only pursue its own export opportunities, but also strive to ensure trade gains for partner nations as well. Such enhanced two-way trade maximizes the economic benefits of any agreement. Expanded trade also facilitates those imperatives of foreign policy and national security that inform every trade agreement negotiation, including the TPP.

Benefits From Including Sugar in TPP

We encourage the ITC to take these potential benefits into account as it assesses the economic effects of this trade agreement.

- First, as a net importer of sugar, the United States relies on a significant amount of sugar imports each year, which means that the inclusion of sugar in the TPP will **increase competition in the U.S. market.** In our view, anything that increases and diversifies the sources of supplies in the U.S. marketplace will help to foster a healthier, more competitive environment.
- Second, a more liberal sugar trading environment will **help to stem job losses**. A study by Promar International shows that thousands of confectionery industry jobs, as well as jobs in other sugar-using food sectors, have been lost in recent years because the present U.S. sugar program creates powerful incentives to locate manufacturing offshore. Trade agreements, such at the TPP can at least begin to address the problem of tight domestic sugar supplies that precipitate these job losses. Trade agreements that provide additional sugar imports can also contribute to increased economic activity and employment in the U.S. cane sugar refining industry, which has seen thousands of jobs lost and most of its plants closed since the present sugar program commenced in 1981. In so doing, trade agreements can encourage long-term investment and job creation in the United States.
- Third, additional sugar exports from Australia and Peru will **generate foreign exchange that these countries can use to buy U.S. food and agriculture products**. This trade agreement will create real opportunities to increase U.S. exports, since the Pacific-rim counties in the TPP combined represent a market for U.S. agricultural commodities that rivals that of the North American Free Trade Agreement. Improved opportunities for exports of sugar-containing products via the U.S. sugar re-export program may also help struggling U.S. confectioners, baked-good producers and other food manufacturers.
- Fourth, **U.S. consumers will benefit from additional sugar trade**. U.S. consumers and businesses already rely on imports from the various TPP countries. We are in fundamental agreement with **previous analytical work by the ITC** – as described in the ITC's periodic analyses of significant U.S. import barriers – that the sugar program creates substantial welfare losses to the U.S. economy by inflating prices, and that measures to erode that price inflation would benefit the economy.

Partial and Full Trade Liberalization

The ITC has received testimony in the past asserting that sugar must be **excluded from future trade agreements**. This testimony has implicitly – or perhaps explicitly – asserted that there is no acceptable level of sugar imports. One additional ton of sugar from any trade agreement, according to this view, will be fatal to the U.S. sugar industry.

If the ITC took this proposition seriously, it might be worthwhile to analyze just how fragile, how uncompetitive an industry must be, if it cannot bear one single ton of sugar without collapsing. But, of course, the argument made by the sugar lobby is not a serious one, in economic terms. The industry is not remotely threatened, for example, by the modest amounts of additional sugar imports contained in the U.S.-Dominican Republic-Central American Free Trade Agreement or other recent agreements such as those pending with Panama and Colombia.

A second consideration for the ITC is that **not all countries ship their existing TRQs, even now.** Almost every year, there has been a shortfall of at least 70,000 tons where the U.S. sugar TRQ is unused, despite its great value. In the last few years, this shortfall has trended upward and is estimated near 200,000 tons this year. If the interest of every nation was always and everywhere to ship every possible ton of sugar to the United States, then there should be no shortfalls, but there are. Additional sugar imports provided by TPP countries would help offset the loss of sugar imports due to the sugar quota holding countries no longer filling their WTO quotas.

Conclusion

We believe the United States should seek a comprehensive TPP with its trading partners. In our judgment, the benefits to our nation from such an agreement will be substantial, and are not only economic in nature, but also include important foreign policy, security, cultural and other considerations. We believe that the inclusion of sugar is not merely a necessity but a positive good. Substantial benefits to consumers, industrial users, cane refiners and other interests will result.

In summary, we hope that the ITC will carry out its analysis of the economic effect of the TPP with certain basic principles in mind:

First, consider benefits to sugar consumers as well as costs to sugar producers.

Second, consider the effects on other U.S. agricultural producers if the United States were to exclude any single commodity.

Third, consider the fact that future agricultural and food trade between the TPP countries will be mutually beneficial.

Thank you for the opportunity to submit these comments and for taking our views into account.

Sugar Products of Interest

Products classified at the six- or eight-digit level relevant to our comments include but are not limited to the following:

1701.11	Cane sugar
1701.12	Beet sugar
1701.91	Sugar containing added flavoring or coloring matter
1701.99	Cane or beet sugar and chemically pure sucrose in solid form: Other
1702.90	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavoring or coloring matter; artificial honey, whether or not mixed with natural honey; caramel: Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 percent by weight of sucrose
1703.10	Cane molasses
1703.90	Molasses resulting from the extraction or refining of sugar: Other
1704.10	Chewing gum, whether or not sugar-coated
1704.90	Sugar confectionery (including white chocolate), not containing cocoa: Other
1701.91.54, 1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56, 2101.12.54, 2101.20.54, 2106.90.78, 2106.90.95	Products containing more than 10% by dry weight of sugar (Additional U.S. Note 8 to Chapter 17)
1806.10.10, 1806.10.34, 1806.10.65	Cocoa powders containing more than 10% by dry weight of sugar (Additional U.S. Note 1 to Chapter 18)
1901.20.30, 1901.20.65	Bakery mixes and doughs containing more than 10% by dry weight of sugar (Additional U.S. Note 3 to Chapter 19)
2103.90.74	Mixed condiments and seasonings containing more than 10% by dry weight of sugar (Additional U.S. Note 4 to Chapter 21)

Additionally, our comments are relevant to the following TRQs maintained by the United States on imports of sugar and sugar-containing products:

Product and Authority	**Quantity**
Raw cane sugar – Additional U.S. Note 5 to Chapter 17	Not less than 1,117,195 metric tons
Refined sugar, sugar syrups and molasses, including specialty sugar (organic sugar, brown slab sugar, pearl sugar, vanilla sugar, rock candy, fondant, caster sugar, golden syrup, golden granulated sugar, cake decorations, and sugar cubes) – Additional U.S. Note 5 to Chapter 17	Not less than 22,000 metric tons
Products containing more than 10% by dry weight of sugar – Additional U.S. Note 8 to Chapter 17	64,709 metric tons
Cocoa powders containing more than 10% by dry weight of sugar – Additional U.S. Note 1 to Chapter 18	2,313 metric tons
Bakery mixes and doughs containing more than 10% by dry weight of sugar – Additional U.S. Note 3 to Chapter 19	5,398 metric tons
Mixed condiments and seasonings containing more than 10% by dry weight of sugar – Additional U.S. Note 4 to Chapter 21	689 metric tons