

December 2, 2015

The Honorable Michael Froman
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Froman:

In accordance with section 5(b)(4) of the Bipartisan Trade Priorities and Accountability Act of 2015, and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Sweeteners and Sweetener Products Agricultural Technical Advisory Committee on the Trans-Pacific Trade Partnership Agreement (TPP) reflecting consensus advisory opinion on the proposed Agreement.

Sincerely,



Don Phillips
Chair

Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

The Trans-Pacific Partnership Agreement (TPP)

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Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products

Advisory Committee Report to the President, the Congress and the United States Trade Representative on the Trans-Pacific Partnership Agreement

I. Purpose of the Committee Report

In accordance with section 5(b)(4) of the Bipartisan Trade Priorities and Accountability Act of 2015, and section 135(e)(1) of the Trade Act of 1974, as amended, requires that advisory committees provide the President, the U.S. Trade Representative, and Congress with reports not later than 30 days after the President notifies Congress of his intent to enter into an agreement. Under Section 135 (e) of the Trade Act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2015.

The report of the appropriate sectoral or functional committee must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, the Agricultural Technical Advisory Committee for Sweeteners and Sweetener Products hereby submits its comments.

II. Executive Summary of Committee Report

It is the unanimous view of Committee members that, particularly in light of the broad benefits to the U.S. agricultural community expected to result from the implementation of TPP, the Agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

While members of the Committee have varying views as to the sectoral aspects of the agreement, detailed in Part IV of this report, none are of the view that the results of the negotiations are inconsistent with goals of sectoral equity and reciprocity.

III. Brief Description of the Mandate of the ATAC Committee for Trade in Sweeteners and Sweetener Products

The advisory committee is authorized by Sections 135(c)(1) and (2) of the Trade Act of 1974 (Pub. L. No. 93-618), as amended, and is intended to assure that representative elements of the private sector have an opportunity to make known their views to the U.S. Government on trade and trade policy matters. They provide a formal mechanism through which the U.S. Government may seek advice and information. The continuance of the committee is in the public interest in connection with the work of the U.S. Department of Agriculture (USDA) and the Office of the U.S. Trade Representative. There are no other agencies or existing advisory committees that could supply this private sector input.

IV. Advisory Committee Opinion on Agreement

As noted in the Executive Summary, it is the unanimous view of Committee members that, particularly in light of the broad benefits to the U.S. agricultural community expected to result from the implementation of TPP, including the market opportunities opened to certain industries represented by the members of this Committee, the Agreement promotes the economic interests of the United States and the applicable overall and principle negotiating objectives set forth in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

However, members of the Committee have varying views as to the sectoral aspects of the Agreement –its impact and value—and different interests, concerns, and perspectives. These are spelled out below but, as noted previously, none are of the view that results of the negotiations are inconsistent with goals of sectoral equity and reciprocity.

Sugar Beet And Sugar Cane growers and affiliated processors and refiners (Johnson, Markwart, Phillips, Price, Simon, and Weston)

Our views are based on the fundamental belief that sugar is an essential and strategic commodity for our nation’s food security. It is important to maintain an efficient, vibrant and competitive industry that is geographically diverse in order to provide reliable supplies of the highest quality products to American consumers.

These views are, in addition, shaped by the lamentable state of the world sugar market and by the extensive market access commitments the U.S. has already made in the WTO, NAFTA, and other FTA’s –commitments which put the Farm Bill’s no-cost sugar policy mandated by Congress at risk.

The world sugar market is generally acknowledged to be the most distorted commodity market in the world. It is a market characterized by chronic dumping, where for decades prices have averaged less than half world average production costs. This pervasive dumping has been driven

by government policies, some of them well known and transparent, others opaque and poorly understood. The government of virtually every sugar producing country has provided a heavy dose of trade-distorting government intervention and support to its industry. Moreover, the level of such support and subsidization seems clearly on the increase. Extreme currency fluctuations also act to distort the world sugar market. Most notably, the sharp drop in the Brazilian real in recent years, given Brazil's dominant export position, has put tremendous downward pressure on world sugar prices. The U.S. sugar import policy was developed to buffer U.S. producers against the disastrous impact of such dumped and subsidized competition.

U.S. sugar producers believe that this highly dysfunctional market can only be restored to health by comprehensive, global negotiations in a multilateral forum such as the WTO that cover the whole range of trade-distorting policies that affect the world sugar market, indirect and/or non-transparent as well as policies and practices of a more direct and transparent nature.

In the absence of an effective international accord to root out these pervasive trade-distorting practices, the U.S. sugar industry, though highly competitive by international standards, has little incentive, or indeed ability, to enter into the world market. Moreover, it is essential that adequate restraints on imports remain in place to prevent the U.S. market from being overrun with subsidized and dumped sugar at ruinous world market prices. Given this situation, considerations of reciprocity and equity are largely irrelevant.

The U.S. is already the world's second largest importer of sugar, importing some 25-30 percent of consumption in recent years, providing access to over 40 countries. The threat that our existing trade commitments pose to U.S. sugar policy was made manifest in 2013 and 2014 when dumped and subsidized sugar from Mexico flooded the U.S. market and, for the first time in over a decade, U.S. government expenditures were required to sustain market prices in accordance with the provisions of the 2008 Farm Bill. This was a sharp and unfortunate departure for U.S. sugar policy, which was designed and expected to operate, and has almost always operated, at no cost.

Understandably, the industry views the negotiation of any new trade agreement with a wary eye. Our strong preference is that no additional market access for sugar be granted in any such agreement. That being said, Ambassador Froman made clear to us, during the course of negotiations, that the Administration would need some flexibility regarding access to our market—but assured us and Members of Congress that our negotiators would do nothing that would undermine U.S. sugar policy. Given those parameters, we sought to work closely and constructively with our negotiators to achieve an acceptable outcome.

We believe the final agreement reached is consistent with those assurances. We commend Ambassador Froman and the U.S. negotiating team for their tireless work, their diligent

communication with our industry, and their understanding of the sensitivities surrounding a global sugar market that has been grossly distorted by foreign subsidies. And we appreciate their rejection of the excessive and unrealistic demands of some of their TPP counterparts.

Specific Elements of the Text:

The agreement establishes:

- Two TRQ's for Australia – a 60,500 MT TRQ for raw sugar and a 4,500 MT TRQ covering raw and refined sugar and the remainder of the 47 sensitive sugar and SCP (sugar-containing product) lines covered by the WTO TRQ's. Two TRQ's for Canada – a 9,600 MT TRQ for refined sugar and a 9,600 MT TRQ for the SCP's covered by the WTO TRQ's. It is important to note that Canada imports 90 percent of the sugar needed for their domestic market, so there is virtually no justification for additional access to the U.S. market and the entry of additional refined sugar displaces important throughput for our cane sugar refiners. This only exacerbates cane raw sugar refiner supplies which are already diminished by imports of refined Mexican sugar and lesser quality sugar that is used for direct consumption, by-passing our cane refining industry.
- Smaller TRQ's have been established for Vietnam (1,500 MT), Malaysia (500 MT) and Japan (100 MT) covering raw and refined sugar and a smaller universe of SCP's.
- In addition, Australia will get 23% of any additional raw sugar needs determined by USDA (post-April 1). Canada will get 20% of any refined sugar additional needs determined by USDA (post-April 1). These “needs based” provisions are important because they do, in fact, give these two key trading partners preferential and substantial additional access based on market needs.

Overall, TRQ's of 86,300 MT have been established for sugar and SCP's in TPP. We believe this amount is manageable and will not undermine U. S. sugar policy as long as the U.S. sugar market is adequately insulated from an influx of dumped and subsidized sugar. In this regard, maintenance and effective enforcement and administration of the Suspension Agreements negotiated with Mexico in the sugar anti-dumping and countervailing duty cases successfully litigated in 2014 and 2015 are of paramount importance to avoid taxpayer cost and further industry consolidation.

There are several elements in the provisions concerning TRQ's that we regard as favorable: (1) there is no growth in the TRQ's; this avoids possible problems should U.S. consumption of sugar stagnate or shrink in the future; (2) the over-quota tariffs remain in place for products covered by the TRQ's; (3) the priority given to raw sugar imports from Australia is helpful as these imports are the ones most likely to be needed in the U.S. market and will enhance U.S. cane sugar

refiners' throughput; and (4) the shift to additional "needs based" provisions as opposed to inflexible TRQ commitments is positive as such commitments align better with the needs of the U.S. sugar market.

We also commend the Administration for keeping the Chilean and Peruvian FTA provisions on sugar and SCP's essentially intact. And we believe the measured approach the Administration has taken with respect to market access commitments on sugar will serve to avoid upsetting our country's important trade relationships with Mexico and the many developed country suppliers to the U.S. market.

Maintaining appropriate rules of origin was another critical objective of our industry and the subject of very difficult negotiations. Here, our negotiators were successful in keeping the product-specific ROO applied in NAFTA and other recent FTA's basically intact. Most importantly, these rules make clear that refining of sugar cannot confer origin. Moreover, the tariff differential provisions of the Agreement ensure that these ROO's cannot be undercut by the principle of "regional cumulation" (i.e., allowing inputs from other TPP countries to count the same as domestic inputs.)

In addition to the establishment of TRQ's, TPP also provides for the elimination of a varying list of sugar and SCP tariffs over a 10-16 year period depending on the country involved – though the tariffs for all 47 sugar and SCP products will be maintained on over-quota imports from Australia and Canada. (And tariffs on imports from Singapore and Mexico have already been eliminated under NAFTA and the U.S.-Singapore FTA.)

We have some concern that these concessions could lead to an increase in imports of products aimed at circumventing the U.S. sugar import policy. However, given the fact that the most sensitive sugar products and SCP's will generally remain subject to over-quota tariffs and that strict ROO will remain in place, and based on the analysis and data at our disposal, we believe this threat to be minimal if the ROO's and other customs provisions aimed at preventing transshipment and other fraudulent activity are effectively enforced. We urge the Administration to take great care in ensuring strict and effective adherence to these provisions.

We also note with satisfaction the success of the U.S. and other like-minded TPP countries in establishing provisions, for the first time in any of our trade agreements, aimed at improving cooperation and transparency on regulations involving biotech products and avoiding unnecessary problems in the trade in such products.

Sugar Users, Independent Refiner (Cerminara, Earley, Hennberry, and Krause)

We appreciate the fact that sugar trade was addressed by our negotiators. However, the additional access to the US sugar market offered to the partner countries is negligible and does little to liberalize regional trade in sugar. The TRQs offered by the United States are either small or provide little additional raw sugar access beyond that in existing FTAs. We believe that the United States should be taking a leading role in eliminating protectionist practices that distort world sugar trade.

The lack of significant additional access to foreign raw sugar for domestic cane sugar refiners is of special concern because these facilities are operating at an unacceptably low level of capacity utilization that threatens their future viability. The cane sugar refining industry is critical infrastructure for the domestic food system, serving as the shock absorber whenever there is a poor sugar beet crop or some other disruption to sugar supplies.

Access for some TPP countries to our sugar market is also limited by a requirement that the country be a net exporter of sugar. We do not require this of our WTO sugar TRQ holders and do not think it should have been a condition imposed in the TPP negotiations.

The US offers to Australia and Canada are particularly disappointing. Australia is one of the world's most important and efficient raw sugar exporters and one of the most reliable suppliers of sugar to the United States under the WTO quota. The Australian sugar industry operates free of government subsidies, and this agreement missed a chance to reward such exemplary trade behavior. Similarly, Canada's beet sugar industry is right next door and could be supplying additional refined sugar to customers in the United States.

Domestic sugar production is less than 75% of annual requirements. U.S. imports of sugar have exceeded 3 million short tons, raw value, in each of the last 7 years, averaging almost 3.5 million tons. They will be at that level again during the current fiscal year. The sum of existing WTO and FTA sugar TRQs is less than 1.6 million short tons. There is no reason why the United States should not have provided greater assured minimum access to the U.S. sugar market for reliable trading partners like Australia and Canada. This would have helped ensure a reliable and reasonably priced supply of sugar for consumers and food and beverage manufacturers. Moreover, if the United States had exhibited a greater willingness to reduce its sugar trade barriers, we would have been able to negotiate better access for our own products and services to partner country markets.

Corn Refiners (Kuball)

The U.S. corn sweetener market already enjoys unfettered access into several TPP member countries that the U.S. has an existing trade agreement with. The industry thanks the

Administration for maintaining many of these provisions throughout the TPP negotiations, most notably with our NAFTA partners.

Our industry recognizes that Japan classifies sugar and sweeteners as sensitive products. We are therefore pleased to see that Japan will immediately eliminate its current 9 percent tariff rate on chemically pure fructose, as Japan is one of the leading export markets for U.S. chemically pure fructose. While the U.S. wasn't able to achieve similar results for other corn sweeteners, we acknowledge the positive improvement on market access for corn syrup products through a series of country specific TRQs. Finally, we are especially pleased that under the TPP agreement tariffs on corn sweeteners into Vietnam and Malaysia will be completely removed.

Maple Syrup (Coombs)

The maple syrup industry is supportive of TPP and, in particular, appreciates the fact that:

- Japan will eliminate tariffs of more than 17.5 percent or 13.50 yen/kg on Maple Syrup and Sugar within three years and:
- Vietnam will eliminate tariffs of 3 percent upon entry into force.

As the maple industry experiences nearly double digit growth, fewer pressures on pricing will help US maple farmers continue to grow.

V. Membership of the Sweeteners and Sweetener Products ATAC

Perry J. Cerminara, The Hershey Company

Arnold Coombs, Bascom Family Farms

Thomas Earley, Agralytica, Inc.

Patrick Henneberry, Imperial Sugar Company

Roland E. Hoch, Global Organics Ltd.

James W. Johnson, U.S. Beet Sugar Association

Keith Krause, McKee Foods Corporation

Cassandra Kuball, Corn Refiners Association

Luther Markwart, American Sugar Beet Growers Association

Donald Phillips, American Sugar Alliance

Kevin Price, American Crystal Sugar Company

Jim Simon, American Sugarcane League of the USA Inc.

Ryan Weston, Hawaiian Commercial and Sugar Company

John Yonover, Indiana Sugars, Inc.