

Trans-Pacific Partnership Agreement and White Sugar Access

Background

Sugar Australia (SA) is Australia's largest producer and exporter of white sugar. It is an unincorporated joint venture between CSR Limited, ("CSR") and Mackay Sugar Limited ("Mackay"). The company operates two refineries in Australia at Mackay in Queensland and Yarraville in Victoria with a combined capacity of close to 750,000 tonnes. The company has an active export program ranging from bulk shipments dedicated to Singapore via its 18,500t BIBO (bulk in, bag out) vessel, the MV Pioneer, to containerised packaged sugar to all parts of the world. Exports out of Australia account for approximately one third of Sugar Australia's production and include approximately 100,000t for distribution in containers to its worldwide customer base, including availability if required, for USA.

USA

Introduction.

Australia is recognised as the world's 2nd largest exporter of raw sugar. It has for many years been guaranteed access to the US market under a structured raw sugar import programme. It is however not always well understood or acknowledged that Australia also has the capacity to assist with the needs of the USA market for imported high quality white refined sugar. The current USA import quota structure for refined sugar does however unfairly disadvantage Australia and prevents any active participation in the supply of refined sugar to USA, even at times of high need and domestic shortage. The opportunity exists to explore a means to guarantee access for Australian refined sugar to the USA market either through changes to the Australia/USA FTA or via the Trans-pacific Partnership Agreement (TPP)

Background

Raw cane sugar, refined sugar, sugar syrups, and specialty sugars enter the United States primarily under two tariff-rate quotas (TRQs), which are provided for in Chapter 17 of the Harmonized Tariff Schedule (HTS). This establishes a minimum TRQ for raw cane sugar of 1,117,195 metric tons and a **minimum TRQ for refined sugar** (also termed "other sugars, syrups, and molasses") **of 22,000 metric tons**

Under these two TRQs, U.S. importers pay either a nominal duty of 0.625c/lb (this will apply to Australian and raw and refined imports) or a zero duty. Sugars that receive preferential tariff treatment under free trade agreements such as the North American Free Trade Agreement (NAFTA) or the U.S. Generalized System of Preferences (GSP) enter at a zero duty. The HTS permits the importation of sugars outside these TRQs, but at considerably higher duty rates. For example **the tariff on white sugar entering the USA outside of the TRQ would currently be US\$350/tonne**

In recent years the refined sugar TRQ has been allocated by USTR primarily to Canada and Mexico. There is a further **portion which is open to all importers on a first-come, first-served or "global" basis**, and a portion for specialty sugar.

There is also provision for the establishment of higher TRQ amounts whenever the Secretary of Agriculture **"believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices."** For example in 2008 the USDA experienced a tight market for refined sugar due to significantly reduced domestic refining capacity resulting from the February 2008 explosion of a domestic raw cane sugar refinery and a reduction in the forthcoming crop year's sugar beet production. It therefore announced in August 2008 an increase in the FY 2008 refined sugar TRQ

equivalent to 272,155 metric tons raw value (mtrv) which was allocated by USTR, 40,000 mtrv to Canada and 68,278 mtrv to Mexico. **The remaining 163,877mtrv was to be supplied by any country on a first-come, first-served basis** from mid August to end December

The sugar program provisions for FY 2011 were announced on July 30, 2010. The in-quota quantity for the tariff-rate quota (TRQ) on raw cane sugar for FY 2011 was set at 1,117,195 MTRV of which **Australia received (based on historic percentages) 87,402 MTRV (7.8%)**

The **FY 2011 refined sugar TRQ was set at 99,111 MTRV** for which the sucrose content, by weight in the dry state, must have a polarimeter reading of **99.5 degrees or more**. This amount includes the minimum quantity to which the United States is committed under the WTO Uruguay Round Agreement (**22,000 MTRV, of which 1,656 MTRV is reserved for specialty sugar**). Imports of all specialty sugar will be **administered on a first-come, first-served basis** in five tranches. USDA has announced that the total quantity of specialty sugar will be the 1,656 MTRV included in the WTO minimum and an **additional 77,111 MTRV**

USTR is allocating a total of 10,300 MTRV **of refined sugar** to Canada, 2,954 MTRV of refined sugar to Mexico, **and 7,090 MTRV of refined sugar to be administered on a first-come, first-served basis**. The Secretary of Agriculture usually establishes TRQs for raw and refined sugars in August or September for the upcoming U.S. fiscal year beginning each October. **Increased tightness in the US raw sugar market** has prompted the US Department of Agriculture (USDA) to allow 2011 sugar imports to enter from 1st September 2010, a month earlier than usual. This announcement applied to raw cane sugar and not refined. To date the USDA has decided not to raise the sugar import quota for 2010 and 2011 fiscal years. The USDA have indicated that the US sugar market will stay relatively tight next year, but that USDA will continue to be fairly cautious in letting in additional sugar imports from countries other than Mexico. The Sweetener Users Association has long argued that an increase in the US sugar import quota is needed as local production is insufficient to meet demand.

Barriers to Access

- While Australia historically has had guaranteed access to the USA through its raw sugar quota, **no such right of entry has been available for white sugar exports**.
- **Raw sugar suppliers under the TRQ are entitled entry** for a specific allocated volume, within a reasonable time limit for entry, through the issuance of "Certificate of Quota Eligibility." These certificates are issued by the U.S. Department of Agriculture and validated by the exporting countries' certifying authorities.
- Australia is at a **disadvantage to major competing suppliers** who are classified as "developing countries" eg Thailand and Brazil, as these countries will be entitled to zero duty under U.S. Generalized System of Preferences (GSP). Any sugar (raw or white) entered by Australia, even under quota, will be charged at 0.625c/lb or US\$14 per tonne.
- The USA/Australia Free Trade Agreement **offers no provisions to assist sugar exports from Australia**. This is in contrast to the North American Free Trade Agreement (NAFTA) which allows for the free trade of sugar from both Canada and Mexico
- In periods when the USA has had an obvious deficit of supply and in need of additional imports, there **has not been a mechanism** (despite Australia's capacity to supply and our mutual commitment to bilateral free trade) to guarantee Australia access to USA market, its consumers and industrial users.
- Australia, due to its geographic location, is at a **distinct disadvantage** to countries that are neighbouring the USA (eg Central and S.America) and even further afield (eg EU) in a TRQ system that operates under a first come first served basis.
- The first come first served system creates an **unacceptably high level of risk** for exports from Australia. Uncertainty as to whether the sugar will be allowed to enter as part of the TRQ precludes Australia from participating in any regular annual quota allocation of even at times of tight supply when higher TRQ's are issued by USDA.
- The **consequences of entering sugar outside of the refined TRQ** (i.e. over quota tariff of US\$350/t) are severe enough to discourage taking the risk to enter sugar under a first come first served TRQ structure.

- Due to the constraints outlined above no Australian sugar has entered the USA under its refined sugar quota. However, at times when the divergence between prices in the USA and the world market are very large, there is the opportunity to supply the market by paying the tariff of US\$350/t applicable to sugars arriving outside the TRQ.
- In early 2010 tightness in the USA market increased local prices to such a level that allowed the first Australian sugar to be entered in this way. Such conditions are however rare and **offer no opportunity for a controlled programme of consistent on going supply**. This example does however illustrate the acceptability and latent demand that exists for high quality imported sugar from Australia by industrial users and consumers in USA.

Outcome desired

A guarantee of a genuine right of entry to the USA for Australian white sugar on commercially viable terms.

Other TPP countries

Trans-Pacific Partnership Agreement (TPP) members include Australia, Brunei, Chile, New Zealand, Singapore, Peru, the United States and Vietnam.

Of the remaining TPP members the countries of most interest with respect to sugar exports are

a) Vietnam

Vietnam is forecast to import 300,000 tonnes of sugar in 2011, unchanged from 2010 as demand continues to outstrip supply Consumption in 2011 is expected to reach between 1.3 million and 1.4 million tonnes, while Vietnam can only refine nearly 1 million tones.

While there is growing potential for sugar imports, the market is dominated by Thai sugar which not only has a geographic advantage but also a tariff advantage. Currently Vietnam imposes only a 5% tariff on sugar originating from ASEAN countries, including Thailand. Imports from countries outside this group, including Australia, incur a 40% tariff. The tariff differential effectively precludes Australia meeting in any significant way the growing refined sugar import requirements of Vietnam (a TPP member).

The ASEAN-Australia-NZ FTA signed in March 09 did little or nothing to assist our position with respect to sugar with most ASEAN members, including Vietnam. **The FTA only allows for an MFN tariff rate quota with 40% in quota tariff to be phased out to 0% by 2020**

This will do little to assist our position with respect to Thai competition over the next decade

b) Chile

Chile is a major importer of refined sugar taking over 500,000t per year from neighbouring S.American sugar exporters including Guatemala and Colombia.

The Chilean sugar import regime is regulated by the Banda System, designed to protect the local producers against world market competition. Its current values are: Ceiling US\$319.00/ton and Floor US\$292.00/ton. The calendar that determines the ceiling and floor of the Banda System has been defined until November 2014 where a gradual decline on these values is sustained until the system is phased out or reviewed by the authorities and the sectors involved.

The full table is detailed below:

Period	Floor	Ceiling
01-dec-09 to 30-Nov-10	292	319
01-dec-10 to 30-Nov-11	286	313
01-dec-11 to 30-Nov-12	269	294
01-dec-12 to 30-Nov-13	253	276
01-dec-13 to 30-Nov-14	238	259

Operation of the Banda System:

- When the reference price (world market value) is below the floor of the Banda, the importer has to pay an additional tax plus the Ad Valorem duty of 6% over the CIF price of the sugar. What the additional tax does is effectively bring the minimum price to the value of the floor of the Banda.
- When the Reference Price is between the Floor and the Ceiling of the Banda, the importer only pays the Ad Valorem duty of 6%.
- When the reference price is above the ceiling, the importer receives a rebate of up to the 6% Ad-Valorem duty.

The Australia-Chile Free Trade Agreement (FTA) entered into force on March 6, 2009. The Agreement eliminates immediately Chile's tariffs on almost 92 per cent of tariff lines covering 97 per cent of the goods currently traded. This includes Australian coal, meat, wine and key dairy exports and all other industrial goods of interest to Australia. Tariffs on all existing merchandise trade will be eliminated by 2015.

However in the sugar Chapter, the benefit is limited to the reduction of the ad-valorem duty (6%) in accordance with the following schedule:

Date	Ad-valorem duty to be charged
01/01/2009	3,00 %
01/01/2010	1,98 %
01/01/2011	1,02 %
01/01/2012	0,00 %

The advantages of Australian sugar coming into Chile are limited only to a reduction of the Ad Valorem. Taking into account that the maximum rebate offered by the Banda system is currently US\$19.14 per ton (6% of the ceiling of US\$319.00 per ton), we see the advantage of Australian sugar very limited as this can be easily offset by a world market price well above the ceiling of the Banda where all origins are equaled and/or by freight differentials, given the regional origins Chile is being supplied from.

The FTA will do little if anything to assist the entry of Australian refined sugar into Chile given that it still has to operate within the protective framework of the current sugar import (Banda) system and the considerable geographic and therefore freight advantage of neighbouring S.American sugar suppliers.

c) Peru

It is worth noting that the US/Peru FTA ((US-Peru Trade Promotion Agreement (PTPA) does include concessions by the United States on sugar.

Essentially the United States provided for an additional TRQ to Peru of 11,000t once Peru was deemed to be a "net exporter". The new TRQ includes 2,000t for specialty sugars and 9,000t of raw (the raw TRQ increases at 2% pa in perpetuity).

While the inclusion of sugar in the PTPA was an advance on AUSFTA, the access commitment was undermined by the "sugar compensation mechanism" that enables the US to provide compensation in

lieu of accepting imports under the zero-duty treatment. This is similar to mechanisms in the Caribbean -Dominican Republic FTA (CAFTA-DR). The TPP provides an opportunity to provide genuine liberalization of sugar trade amongst TPP members.

d) Malaysia

The Malaysian sugar industry is highly regulated, with government control over imports as well as domestic white sugar wholesale and retail prices. The domestic sugar industry is managed under the control of the Ministry of Domestic Trade (MIT) with all issues of imports/exports under the guise of the Ministry of International Trade and Industry (MITI). This body oversees all imports and negotiates long term contracts for raw sugar imports on behalf of the domestic refiners.

Malaysia has a small domestic sugar industry, producing around 110,000t of sugar per year. In order to meet domestic demand, Malaysia imports over 1.3 million tonnes of raw sugar, most of which is refined at two stand- alone refineries. These refineries use their surplus refining capacity to toll refine sugar for export. The quantity of refined exports ranges between 100-300,000 tpa and is largely destined for Indonesia, Singapore and Philippines.

Australia has historically had a large share of Malaysian raw sugar imports, servicing, nearly three quarters of their annual requirements or close to 1 million tonnes per year.

By contrast, the administration of Malaysia's existing import licensing structure create a trade barrier which prohibits Australia from exporting any white refined sugar into the Malaysian market.

Imports are highly regulated and, provided a license to import raw or white sugar can be obtained from MITI, there is no duty on imports. However, these licenses are only issued to the refining companies who only import raw sugar and have a self interest in keeping white sugar imports out of the market. White sugar imports are therefore effectively excluded from entering the Malaysian market.

No such protection exists in the Australian market which is totally deregulated and allows the free and unhindered entry of white sugar imports.

In fact, there has been a large increase in white sugar imports into Australia from Malaysia over the last few years. Trade statistics show over 11,000t of Malaysian white sugar entering Australia over the last 12 months. Malaysian imports now represent a significant competitive threat for Australian refiners, particularly in the retail market in Western Australia.

The inclusion of Malaysia within the TPP group offers the opportunity to address this unfair balance of trade in white sugar and seek to remove the impediments or barriers to white sugar imports from Australia.

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