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# U.S. Sugar Program Fundamentals

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## Summary

The U.S. sugar program provides a price guarantee to producers of sugar beets and sugarcane and to the processors of both crops. The U.S. Department of Agriculture (USDA), as program administrator, is directed to administer the program at no budgetary cost to the federal government by limiting the amount of sugar supplied for food use in the U.S. market. To achieve both objectives, USDA uses four tools—as reauthorized without change by the 2014 farm bill (P.L. 113-79) and found in chapter 17 of the Harmonized Tariff Schedules of the United States—to keep domestic market prices above guaranteed levels. These are:

- price support loans at specified levels—the basis for the price guarantee;
- marketing allotments to limit the amount of sugar that each processor can sell;
- import quotas to control the amount of sugar entering the U.S. market;
- a sugar-to-ethanol backstop—available if marketing allotments and import quotas are insufficient to prevent a sugar surplus from developing, which in turn could result in market prices falling below guaranteed levels.

To supplement these policy tools in supporting sugar prices above government loan levels, while avoiding costly loan forfeitures, important administrative changes were adopted in late 2014. These included imposing limits on U.S. imports of Mexican sugar and establishing minimum prices for Mexican sugar imports, actions that fundamentally recast the terms of bilateral trade in sugar. Most recently, two U.S. sugar refiners are pressing for the withdrawal of these changes, so although this new regime is in effect, there is a measure of uncertainty about its future.

Under the U.S. sugar program, nonrecourse loans that may be taken out by sugar processors, not producers themselves, provide a source of short-term, low-cost financing until a raw cane sugar mill or beet sugar refiner sells sugar. The “nonrecourse” feature of these loans means that processors—to meet their repayment obligation—can exercise the legal right to forfeit sugar offered as collateral to USDA to secure the loan, if the market price is below the effective support level when the loan comes due.

Sugar marketing allotments limit the amount of domestically produced sugar that processors can sell each year. In a 2008 farm bill provision, retained by the 2014 farm bill, USDA each year must set the overall allotment quantity (OAQ) at not less than 85% of estimated U.S. human consumption of sugar. The OAQ is intended to ensure that permitted sales of domestic sugar, when added to imports under U.S. trade commitments, do not depress market prices below loan forfeiture levels for refined beet sugar and raw cane sugar.

The United States imports sugar in order to meet total food demand. The amount of foreign sugar supplied to the U.S. market reflects U.S. commitments made under various trade agreements. The most significant import obligation is the World Trade Organization (WTO) quota commitment, which requires the United States to allow not less than 1.256 million tons of sugar (almost all raw cane) to enter the domestic market from 40 countries. The United States also grants much smaller import quotas to the nine countries covered by four free trade agreements. At the same time, a 2008 farm bill provision, also retained in the 2014 farm bill, directs USDA to manage overall U.S. sugar supply, including imports, so that market prices do not fall below effective support levels.

If market prices fall below levels guaranteed by the sugar program, USDA must administer a sugar-for-ethanol program in which it purchases domestically produced sugar from the market and sells it to ethanol producers as feedstock for fuel ethanol production.

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## Sugar Policy Overview

The U.S. sugar program is singular among major agricultural commodity programs in that it combines a floor price guarantee with a supply management structure that encompasses both domestic production for human use and sugar imports. The sugar program provides a price guarantee to the processors of sugarcane and sugar beets, and by extension, to the producers of both crops. The U.S. Department of Agriculture (USDA) is directed to administer the program at no budgetary cost to the federal government by limiting the amount of sugar supplied for food use in the U.S. market. To achieve both objectives, USDA uses four tools to keep domestic market prices above guaranteed levels. Measures one through three below were reauthorized through crop year 2018 without change by the 2014 farm bill (P.L. 113-79). The fourth measure is found in long-standing trade law. The four are:

1. price support loans at specified levels—the basis for the price guarantee;
2. marketing allotments to limit the amount of sugar that each processor can sell;
3. a sugar-to-ethanol (feedstock flexibility) backstop—available if marketing allotments and import quotas fail to prevent a price-depressing surplus of sugar from developing (i.e., fail to keep market prices above guaranteed levels);
4. import quotas to control the amount of sugar entering the U.S. market.

In addition to the foregoing policy tools, two agreements signed by the U.S. Department of Commerce (DOC) in late 2014—one with the government of Mexico and another with Mexican sugar producers and exporters—impose annual limits on Mexican sugar exports to the United States and establish minimum prices for imported Mexican sugar.

The current sugar program has its roots in the Agriculture and Food Act of 1981 (P.L. 97-98), according to the USDA.<sup>1</sup> The sugar program that Congress enacted in the 1981 farm bill required the Secretary of Agriculture to support prices of U.S. sugarcane and sugar beets at minimum levels—initially through purchases of processed sugar, and subsequently by offering nonrecourse loans. The legislation also encouraged the President to impose duties, fees or quotas on foreign sugar to prevent domestic prices from moving below established support levels to avoid imposing budgetary costs on the government. In its report on the 1981 farm bill, the Senate Committee on Agriculture, Nutrition and Forestry cited the importance of sugar imports to U.S. sugar supplies, pointing out that volatile world market prices of sugar contributed to sharp fluctuations in U.S. sugar prices, while adding that the United States was alone among sugar producing nations in being without an effective government price support program.<sup>2</sup>

The sugar program has long been a source of political controversy over the degree of government support and market intervention it involves with sharply differing perspectives on the balance of benefits and drawbacks to the program. Critics of the program, including the Coalition for Sugar Reform, which represents consumer, trade and commerce groups, manufacturing associations and food and beverage companies that use sugar, argue the sugar program acts to keep domestic prices far above world sugar prices. In so doing, the Coalition contends the sugar program imposes a hidden tax on consumers that has led to the loss of jobs in the food manufacturing sector by encouraging imports of sugar-containing products and by providing manufacturers an incentive to move facilities abroad to gain access to lower priced sugar. The American Sugar Alliance, consisting of sugarcane and sugar beet producers, including farmers, processors,

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<sup>1</sup> USDA, ERS Sugar & Sweeteners at <http://www.ers.usda.gov/topics/crops/sugar-sweeteners/policy.aspx>.

<sup>2</sup> Report of the Senate Committee on Agriculture, Nutrition, and Forestry to accompany S. 884, May 27, 1981.

refiners, suppliers and sugar workers, is a leading advocate for the U.S. sugar program. It points out that the price support feature of the sugar program fosters a reliable supply of sugar at reasonable prices at no cost to the government. The sugar program, it argues, is necessary to shield the domestic sugar industry from unfair competition from sugar imports at world market prices that are distorted by heavily subsidized foreign sugar that is dumped on the world market at prices that are below production costs.

For background on sugar policy debate, see CRS Report R42551, *Sugar Provisions of the 2014 Farm Bill (P.L. 113-79)*.

## Price Support Loans

Nonrecourse loans taken out by a processor of a sugar crop, not producers themselves, provide a source of short-term, low-cost financing until a raw cane sugar mill or beet sugar refiner sells sugar. The “nonrecourse” feature means that processors—to meet their loan repayment obligation—can exercise the legal right to forfeit sugar offered as collateral to USDA to secure the loan, if the market price is below the effective support level when the loan comes due. **Figure 1** and **Figure 2** illustrate the repayment options available to beet sugar refiners and raw cane sugar mills, respectively, and show loan rates and effective support levels for FY2015.

The price levels at which processors can take out loans are referred to as “loan rates.” The raw cane sugar loan rate (18.75¢/lb) is lower than the refined beet sugar loan rate (24.09¢/lb) to reflect its unprocessed state. The raw sugar loan rate is lower because raw sugarcane must be further processed by a cane refinery to have the same value and characteristics as refined beet sugar for food use. These loan rates are national averages. Actual loan rates are adjusted by region to reflect marketing cost differentials.

The minimum market price that a processor wants to receive in order to remove the incentive to forfeit sugar and instead repay a price support loan, though, is higher than the loan rate. This “effective support level,” also called the loan forfeiture level, represents all of the costs that processors need to offset to make it economically viable to repay the loan. These costs equal the loan rate, *plus* interest accrued over the nine-month term of the loan, *plus* certain marketing costs. The effective support level for 2014-crop (FY2015) raw cane sugar is 20.95¢/lb; for refined beet sugar, it ranges from 24.4¢ to 26.1¢/lb, depending on the region.

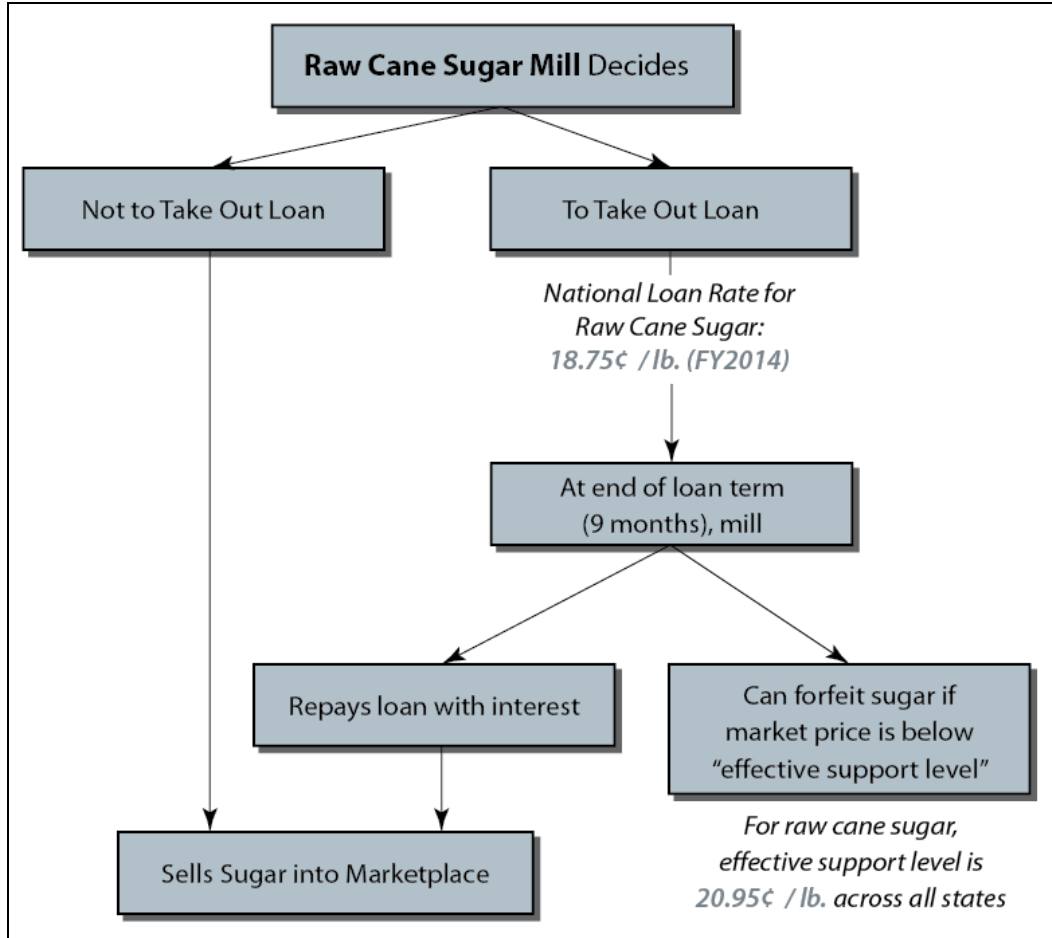
If market prices are below these loan forfeiture levels when a price support loan usually comes due (i.e., July to September), and a processor hands over sugar earlier pledged to obtain this loan rather than repaying it, USDA records a budgetary expense (i.e., an outlay). If this occurs, USDA gains title to the sugar and is responsible for disposing of this asset.

Two suspension agreements the DOC signed in December 2014—one with the Government of Mexico and another with Mexican sugar producers and exporters—have substantially modified the terms for importing sugar from Mexico and may have the practical effect of raising the effective support level.<sup>3</sup> For one, Mexican sugar is an important source of the U.S. sugar supply, with imports of Mexican sugar averaging 15% of the sum of U.S. production plus imports during the three most recent marketing years from 2011/2012 to 2013/2014. The agreements (see “Suspension Agreements Recast Sugar Trade with Mexico” below) establish minimum prices for

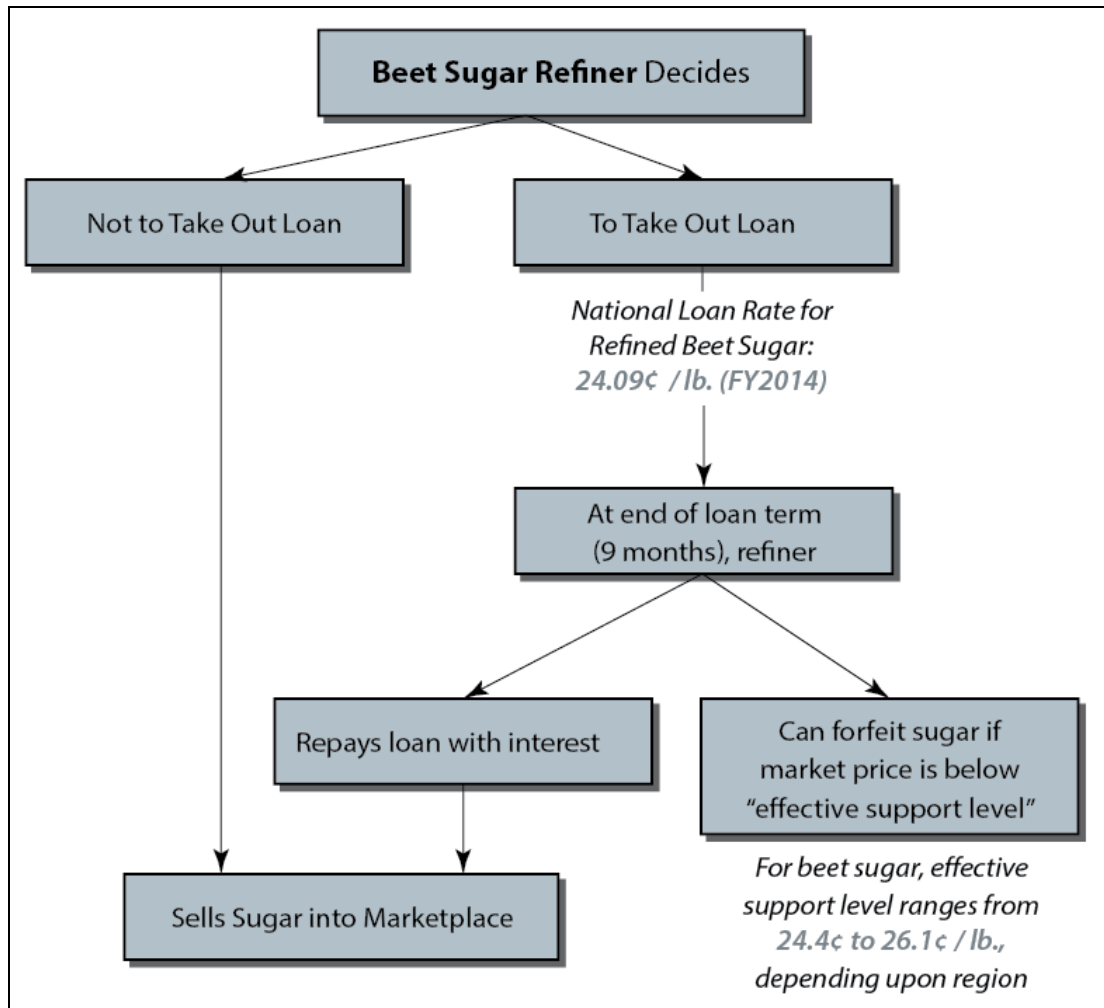
<sup>3</sup> See Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico at <http://enforcement.trade.gov/agreements/sugar-mexico/CVD-Agreement.pdf>; also, Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico at <http://enforcement.trade.gov/agreements/sugar-mexico/AD-Agreement.pdf>.

Mexican sugar imports that are at, or above, effective U.S. support levels. These minimum prices are calculated at Mexican plants, so transportation costs to the U.S. processor or end user would add several cents per pound to the delivered cost of Mexican sugar. As a result, prices of imported Mexican sugar should track well above levels that would encourage U.S. loan forfeitures.

**Figure 1. Price Support Loan Making Process for Raw Cane Sugar**



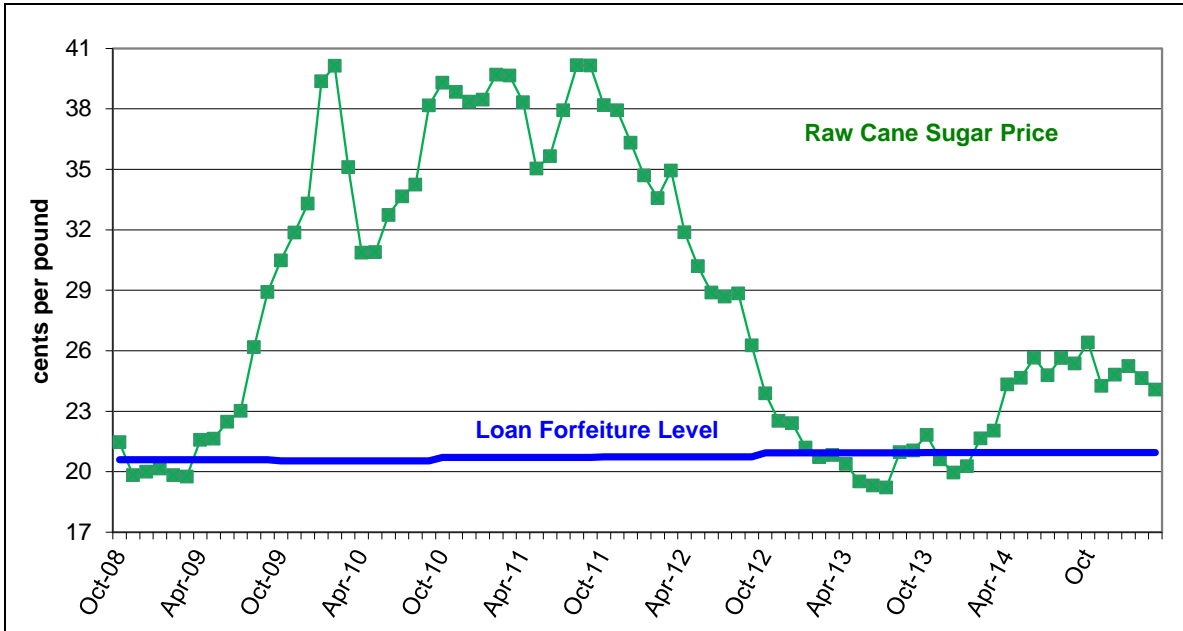
**Note:** As of April 7, 2015, mills that process sugarcane had 696,314 tons of 2014-crop raw cane sugar under loan, valued at \$265.1 million. This represents 18.4% of USDA’s March 2015 estimate of raw cane sugar production from the 2014 sugarcane crop.

**Figure 2. Price Support Loan Making Process for Refined Beet Sugar**

**Note:** As of April 7, 2015, processors of sugar beets had 884,000 tons of 2014 beet sugar and in-process beet sugar under loan, valued at \$396.2 million. This represents 18.2% of USDA's March 2015 estimate of refined beet sugar production from the 2014 sugar beet crop. Sugar beet processors also still had under loan 12,500 tons of beet sugar from the 2013 crop valued at \$5.9 million.

Market prices for raw cane sugar and refined beet sugar since the 2008 farm bill provisions took effect were higher than loan forfeiture levels until mid-year 2013 (**Figure 3** and **Figure 4**, respectively). Toward the end of FY2013, market prices that were below these effective support levels prompted processors to forfeit, or hand over, to USDA 381,875 tons of sugar (4.3% of FY2013 U.S. sugar output valued at almost \$172 million). USDA actions taken to avert these forfeitures, and then to dispose of sugar acquired as a result of these forfeitures, are detailed below in “Sugar Purchases and Exchanges for Import Rights” and “Feedstock Flexibility Program for Bioenergy Producers.”

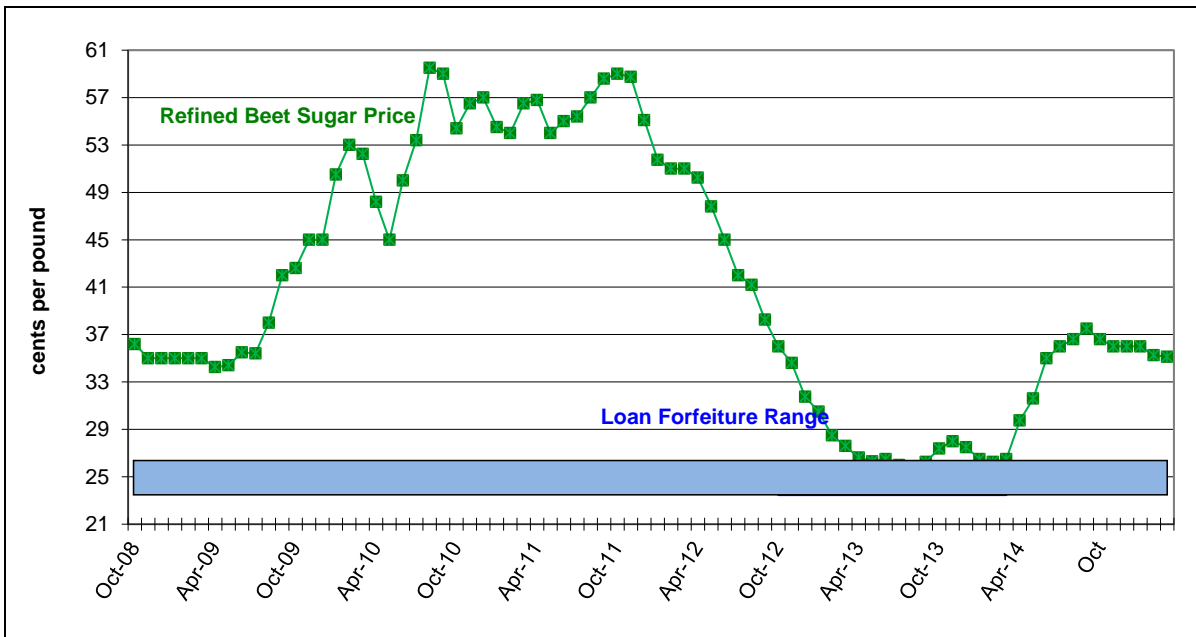
**Figure 3. Raw Cane Sugar Prices Have Been Above Loan Forfeiture Level Since the 2008 Farm Bill Except in Early FY2009, Late FY2013, and Early FY2014**



**Source:** USDA, Economic Research Service, for price data; USDA, Farm Service Agency, for loan forfeiture level.

**Note:** Raw cane sugar market price is the average futures price for the nearby month contract for domestic #16, traded in New York City on the Intercontinental Exchange (ICE).

**Figure 4. Refined Beet Sugar Prices Have Stayed Above Loan Forfeiture Range Since the 2008 Farm Bill Until March 2013**



**Source:** USDA, Economic Research Service, for price data; USDA, Farm Service Agency, for loan forfeiture range.



**Note:** The market price for refined beet sugar is the quoted price for wholesale refined beet sugar in Midwest markets, as published by *Milling and Baking News*.

## Tools for Balancing Supplies and Supporting Prices

The government sets annual limits on the quantity of domestically produced sugar that can be sold for human use. It also restricts the level of imports that may enter the domestic market through tariff-rate quotas and via an import limitation agreement with Mexico. This is done to avoid costs during times when an imbalance between sugar supplies and demand could lead to low prices and sugar forfeitures under the loan program.

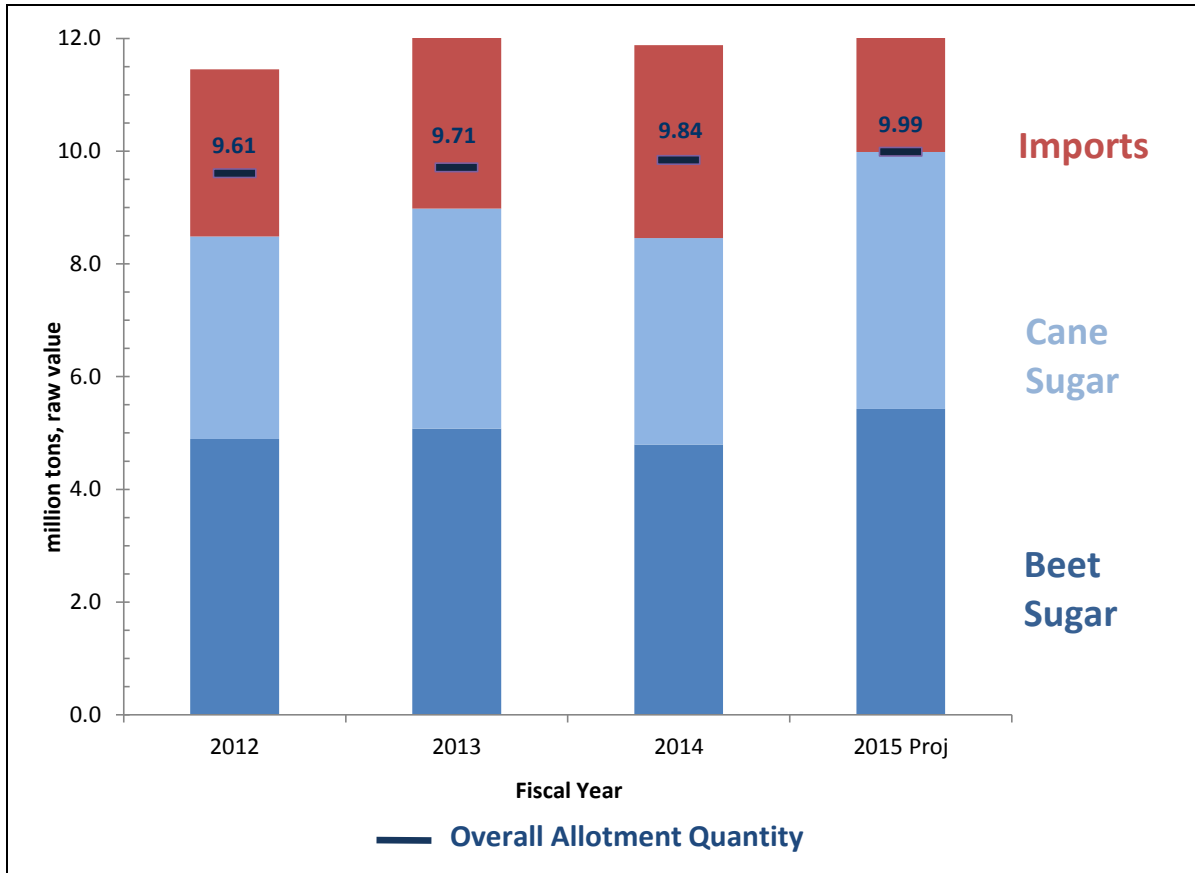
### Marketing Allotments

Sugar marketing allotments limit the amount of domestically produced sugar that processors can sell each year. They do not, however, limit how much beet and cane farmers can produce, nor do they limit how much sugar beets and sugarcane that beet refiners and raw sugar mills can process. In a 2008 farm bill provision that was retained in the 2014 farm bill, USDA is required each year to set the overall allotment quantity (OAQ) at not less than 85% of estimated U.S. human consumption of sugar for food. This task is carried out by the USDA's Commodity Credit Corporation (CCC) at the beginning of each fiscal year. The OAQ is intended to ensure that permitted sales of domestic sugar, when added to imports under U.S. trade commitments, do not depress market prices below loan forfeiture levels for refined beet sugar and raw cane sugar. Sugar production that is in excess of a processors' marketing allotment may not be sold for human consumption except to allow another processor to meet its allocation or for export.

In recent years, U.S. sugar production has consistently fallen short of the OAQ, averaging 89% of the OAQ threshold during the most recent three completed years from FY2012 through FY2014. Over this same period, U.S. sugar production has amounted to 75% of U.S. human use of sugar. .

**Figure 5** illustrates the persistent gap between domestic sugar production, the higher levels of the OAQ, and U.S. domestic consumption for human use. Substantial quantities of sugar have been imported to cover shortfall between domestic output and human consumption. For this reason, market participants view USDA's decisions on setting import quotas rather than marketing allotments as having more of an impact on market price levels (see "Import Quotas").

The national OAQ is split between the beet and cane sectors and then allocated to processing companies based on previous sales and production capacity. If either sector is not able to supply sugar against its allotment, USDA has authority to reassign such a "shortfall" to imports.

**Figure 5. Overall Allotment Quantity Compared to Total U.S. Sugar Supply**

**Source:** Derived by CRS from USDA sugar program announcements and USDA's World Agricultural Supply and Demand Estimates reports.

**Note:** Imports shown occur under terms of U.S. trade commitments and are discussed in more detail in the next section.

## Import Quotas

The United States imports sugar in order to meet total food demand. From FY2012 through FY2014, imports accounted for 31% of U.S. sugar used in food and beverages. The amount of foreign sugar supplied to the U.S. market reflects U.S. commitments made under various trade agreements. At the same time, a 2008 farm bill provision—one retained in the 2014 farm bill—directs USDA to manage overall U.S. sugar supply, including imports, so that market prices do not fall below effective support levels. The most significant import limit is the World Trade Organization (WTO) quota commitment, which requires the United States to allow not less than 1.256 million tons of sugar (almost all raw cane) to enter the domestic market from 40 countries. The United States also grants much smaller import quotas to the six countries covered by the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA), and to Colombia, Panama, and Peru under separate free trade agreements. For instance, the tariff-rate quota (TRQ) for calendar year 2015 totals 138,100 metric tons raw value for the DR-CAFTA countries and 52,250 million tons raw value for Columbia. Panama and Peru have smaller TRQs.

Beyond these defined import commitments, unrestricted, duty-free access to Mexican sugar under the North American Free Trade Agreement (NAFTA) introduced uncertainty over how much

sugar Mexico would ship north in any year. To illustrate, U.S. imports of Mexican sugar since 2008 have ranged from a low of about 800,000 tons in FY2010 to a high of almost 2.1 million tons in FY2013. This variability (**Figure 6**) in part reflects large swings in the amount of Mexican sugar available for export in any year, depending on the impact of drought in some years in Mexico's sugarcane-producing regions, and the degree to which U.S. exports of cheaper high-fructose corn syrup displace Mexican consumption of Mexican-produced sugar.

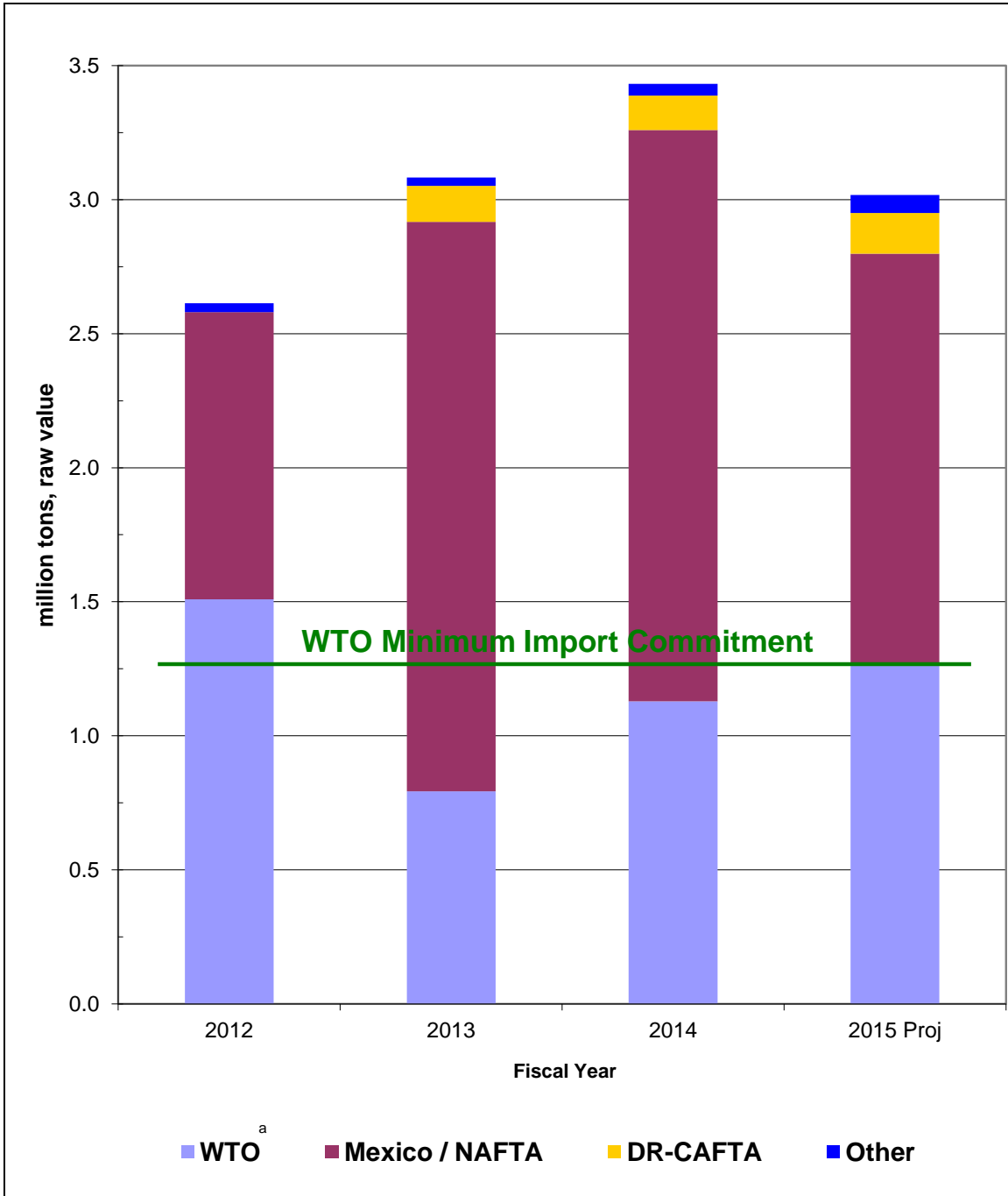
During the three most recently completed marketing years, FY2012-FY2014, Mexico was by far the largest source of U.S. sugar imports, supplying 50% of total U.S. sugar imports on average over this period. Reflecting Mexico's unique status as an unrestricted supplier, its annual shipments varied from a high of 2.1 million short tons, raw value (STRV)<sup>4</sup>, comprising 66% of U.S. sugar imports in FY2013, to a low of 1.1 million STRV status, comprising 29% of U.S. imports in FY2012. Sugar entering the United States under tariff-rate quota programs during these three years amounted to 37% of all imports, with DR-CAFTA countries supplying a subtotal of nearly 4% of total sugar imports (**Figure 6**).

To address the market uncertainty expected from imports of Mexican sugar once it achieved unrestricted access in 2008, the 2008 farm bill introduced a new policy to regulate imports, and this policy was retained by the 2014 farm bill. The farm bill directed that at the beginning of each marketing year (October 1) USDA was required to set the WTO quotas for raw cane and refined sugar at the minimum level—1.256 million tons—necessary to comply with this trade commitment (**Figure 6**). In case of an emergency shortfall of sugar prior to April 1, due to either weather or war, USDA was directed to increase these quotas. Absent such a supply emergency, USDA must wait until April 1 (the midpoint of the marketing year) before deciding whether or not to increase the WTO raw sugar quota. Any increase in the import quota is temporary in that it applies only until the beginning of the next marketing year, which begins on October 1.

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<sup>4</sup> A short ton is equivalent to 2,000 pounds. Raw value is a factor of 1.07 of refined value, according to USDA, except for Mexican sugar for which raw value is a factor of 1.06 of the actual weight of the shipped product.

**Figure 6. U.S. Sugar Imports, by Trade Agreement**  
Raw Cane and Refined Sugar



**Source:** USDA, Economic Research Service, Foreign Agricultural Service, and the World Agricultural Outlook Board.

**Notes:** Imports for domestic food/beverage consumption only; excludes sugar imported for the sugar re-export program.

a. FY2014 imports under the WTO commitment reflect a shortfall of 236,841 tons (i.e., the cumulative amount of sugar that eligible countries with a quota can sell, but did not ship, to the U.S. market for various reasons). For FY2015, USDA projects a shortfall of 99,208 tons as of March 2015.

## **Suspension Agreements Recast Sugar Trade with Mexico**

While the 2014 farm bill reauthorized the sugar program intact for five years through 2018 crops, events since enactment of the farm bill have materially altered the program. A recent, major change with substantial repercussions for the U.S. sugar program concerns treatment of imported sugar from Mexico. From 2008 until December 2014, Mexican sugar exports were accorded unrestricted, duty-free access to the U.S. market under NAFTA. Two suspension agreements that the U.S. government signed with the Government of Mexico and with Mexican sugar producers and exporters in December 2014 have fundamentally altered trade in sugar with Mexico while creating ripple effects for the sugar program and for sugar users. The two suspension agreements stem from parallel countervailing duty (CVD) and antidumping (AD) investigations initiated in the spring of 2014 by the International Trade Commission (ITC) and the International Trade Administration (ITA) of the DOC in response to a petition filed by the American Sugar Coalition (ASC). The ASC represents sugarcane and sugar beet producers, processors, refiners, and sugar workers. Sections 704 and 734 of the Tariff Act of 1930 (19 U.S.C. §1671(c) and §1673(c)), as amended, provide the legal authority for the CVD and AD suspension agreements.

Preliminary findings in the CVD investigation determined that the Mexican government was subsidizing Mexican sugar exports.<sup>5</sup> The AD investigation concluded as a preliminary matter that Mexican sugar was being dumped into the U.S. market, that is, sold at less than fair value—defined as below the sale price in Mexico, or below the cost of production.<sup>6</sup> The investigations determined these actions had injured the U.S. sugar industry, and based on these preliminary findings, the DOC imposed cumulative duties on U.S. imports of Mexican sugar to be deposited by U.S. importers of sugar, ranging from 2.99% to 17.01% under the CVD order, and from 39.54% to 47.26% under the AD order.

In December 2014, the U.S. Department of Commerce (DOC) entered into suspension agreements with the Government of Mexico and with Mexican sugar industry interests. Under the CVD agreement that DOC entered into with the Government of Mexico and the AD order that DOC signed with Mexican sugar producers and exporters, the DOC agreed to suspend both the CVD and AD investigations and to remove the duties it had imposed on imports of Mexican sugar. In return, the Government of Mexico agreed to relinquish the unrestricted access to the U.S. sugar market it had negotiated under NAFTA. Further, the Mexican government and Mexican producer groups and exporters also agreed to observe the certain restrictions on Mexican sugar exports to the United States.

The two suspension agreements have substantially recast U.S. sugar trade with Mexico by imposing three fundamental changes on Mexican sugar exports to the United States.

- Mexico's previously unlimited sugar exports to the U.S. market are henceforth limited to an assessment of U.S. needs, defined as the residual of projected U.S. human use less domestic production and imports from tariff-rate quota countries.
- Refined sugar exports from Mexico are limited to 53% of Mexico's allowable quantity in any given marketing year (October 1 to September 30), whereas previously no such restriction was in place.

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<sup>5</sup> See U.S. Department of Commerce Fact Sheet of August 26, 2014, at <http://enforcement.trade.gov/download/factsheets/factsheet-mexico-sugar-ad-prelim-082614.pdf>.

<sup>6</sup> See U.S. Department of Commerce Fact Sheet of October 27 at <http://enforcement.trade.gov/download/factsheets/factsheet-mexico-sugar-ad-prelim-102714.pdf>.

- Mexican sugar is subject to minimum reference prices of \$0.26 per pound for refined sugar and \$0.2225 for all other sugar.<sup>7</sup> Prior to the agreements, no floor price was imposed.

To determine the quantity of Mexican sugar that may be imported into the United States in a given marketing year under the suspension agreements, DOC is tasked with making an initial calculation of the domestic requirement for Mexican sugar in July. This quantity is subject to a recalculation in September, December, and March that may result in increases in quantity from the initial calculation.

In addition to imposing limits on the quantity of Mexican sugar that may be imported into the U.S. market, the agreements limit the concentration of Mexican sugar imports over the course of the marketing year to not more than 30% of the assessment of U.S. needs from October 1 through December 31 and not more than 55% from October 1 through March 31. For instance, in the wake of the agreement the initial export limit on Mexican sugar of 1,162,604.75 metric tons raw value for the 2014/2015 marketing year was subsequently increased to 1,383,969.68 metric tons raw value, which became effective on March 30, 2015.

### **Potential Effects on Government Outlays and Sugar Prices**

In practice, the changes ushered in by the suspension agreements should greatly facilitate the USDA's task of operating the sugar program at no cost to the government, as Congress directed in the 2014 farm bill. Prior to the suspension agreements, imports of sugar from Mexico represented the only unmanaged source of supply under the sugar program. The USDA's ability to administer the sugar program at no net cost has been at issue since the 2012/2013 crop year, when net government outlays for the sugar program spiked to \$259 million. That year, large quantities of domestic sugar under loan were forfeited in the face of excess supplies and low market prices. This obligated USDA to dispose of the forfeited sugar at a significant loss under the Feedstock Flexibility Program (FFP) and via exchanges in which the agency provided swapped forfeited domestic sugar for the right to import certain quantities of sugar.<sup>8</sup>

In an analysis issued in March 2015, the Food and Agricultural Policy Institute (FAPRI) at the University of Missouri projected net government outlays for the sugar program under two scenarios: with the suspension agreements, and without them. FAPRI concluded that under the suspension agreements net government outlays for sugar would be zero over marketing years 2016 through 2024. Without the agreements, FAPRI projected that annual outlays would average \$16 million a year during marketing years 2016 through 2018, declining to \$8 million a year on average from 2019 through 2024.<sup>9</sup> In its March 2015 Baseline for Farm Programs, the Congressional Budget Office (CBO) projects government outlays for the sugar program at zero over the period FY2015 through FY2019. From FY2020 through FY2025 CBO projects outlays totaling \$115 million, reflecting a likely re-examination of the agreement after five years and the potential for policy uncertainty over Mexican sugar imports thereafter.<sup>10</sup>

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<sup>7</sup> Prices are based on dry weight, commercial value, f.o.b. at Mexican plants.

<sup>8</sup> See U.S. International Trade Commission publication 4467, *Sugar from Mexico*, p. 27, [http://usitc.gov/publications/701\\_731/pub4467.pdf](http://usitc.gov/publications/701_731/pub4467.pdf).

<sup>9</sup> *Impacts of the U.S.-Mexico Antidumping and Countervailing Duty Suspension Agreement*, FAPRI, March 27, 2015, at <http://www.fapri.missouri.edu/wp-content/uploads/2015/03/FAPRI-MU-Bulletin-07-15.pdf>.

<sup>10</sup> Telephone conversation of April 1, 2015, with Dave Hull, Congressional Budget Office.

Assessing the potential for the suspension agreements to add to costs borne by sugar-using industries and consumers, the Coalition for Sugar Reform, representing consumer, trade, and commerce groups; manufacturing associations; and food and beverage companies that use sugar, contends that the suspension agreements will result in higher sugar prices for U.S. users and consumers. Following the signing of the suspension agreements in December 2014, the Coalition asserted, “These agreements will ensure that any Mexican sugar needed to adequately supply the U.S. market must be priced well above world market prices—prices that are even higher than mandated by the U.S. sugar program.”<sup>11</sup> The American Sugar Alliance, a coalition of sugar producers, including farmers, processors, refiners, sugar suppliers and workers, has expressed support for the agreements, contending they will foster free and fair trade in sugar, while benefiting U.S. sugar farmers, workers, consumers, and taxpayers.<sup>12</sup>

Considering that Mexican sugar is a significant source of U.S. sugar supplies that can vary in quantity from one year to the next, and considering also that minimum prices of Mexican sugar are at U.S. loan levels, or above them, without including transportation costs to U.S. destinations, it is evident that pricing on Mexican sugar should be well above U.S. loan levels as long as the suspension agreements remain in effect. Transportation from Mexican mills adds several cents per pound to the cost of sugar delivered to U.S. plants—as much as \$0.03 to \$0.06 per pound, according to FAPRI.

## **Two Sugarcane Refiners Challenging Suspension Agreements**

Whether the new framework around trade in Mexican sugar imposed by the suspension agreements will remain in effect is not entirely certain. The agreements have no termination date, but the signatories may terminate them at any time. The suspended CVD and AD investigations are subject to a review after five years. More immediately, two U.S. sugarcane refiners—Imperial Sugar Company and AmCane Sugar LLC—are attempting to challenge the agreements. In January 2015, the two companies petitioned the U.S. International Trade Commission (ITC), contending the agreements do not eliminate completely the injurious effect of sugar imports from Mexico as the law permitting such agreements requires.<sup>13</sup> In a unanimous decision issued in March 2015, the ITC concluded the agreements do eliminate entirely the injurious effect of Mexican sugar imports.<sup>14</sup> In late April 2015, the two sugar-refining companies indicated their intention to appeal the ITC’s decision on injury to the United States Court of International Trade, according to press reports.<sup>15</sup>

The companies also have petitioned the DOC to continue the CVD and AD investigations to final determinations. In early May 2015, the DOC determined the two sugar-refining companies have standing under the law to make such a petition. As such, the agency announced it would resume the CVD and AD investigations with the intention of issuing final determinations within 135 days

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<sup>11</sup> Coalition for Sugar Reform press release of December 22, 2014, at <http://sugarreform.org/wp-content/uploads/2011/07/CSR-AD-CVD-Agreements-Signed-12-22-14-FINAL.pdf>.

<sup>12</sup> American Sugar Alliance press release of March 19, 2015, at <http://www.sugaralliance.org/itc-suspension-agreements-remove-the-injury-caused-by-unfairly-traded-mexican-sugar-5245/>.

<sup>13</sup> CVD: 19U.S.C. §1671c(c); AD: 19 U.S.C. §1673c(c).

<sup>14</sup> See U.S. ITC press release of March 19, 2015, at [http://www.usitc.gov/press\\_room/news\\_release/2015/er0319ll436.htm](http://www.usitc.gov/press_room/news_release/2015/er0319ll436.htm).

<sup>15</sup> Reuters article of April 24, 2015, at <http://af.reuters.com/article/commoditiesNews/idAFL1N0XL1QY20150424>.



of the May 4, 2015, notice date—roughly mid-September 2015.<sup>16</sup>In the meantime, the terms of the suspension agreements remain in force.

Looking ahead, if DOC were to issue final affirmative findings (similar to their preliminary findings) that subsidization and dumping of Mexican sugar occurred, and if ITC were to issue a final determination that the U.S. sugar industry was injured as a result, then the suspension agreements would remain in effect. Alternatively, if either agency were to issue a negative final determination—that is, concluding that subsidization, dumping, or injury did not occur—then the investigations would be ended, and the suspension agreements that limit Mexican sugar imports and set minimum reference prices would be terminated.

## **Mechanisms Aimed at Countering Low Prices**

In addition to domestic marketing allotments and import quotas and limits, USDA has two policy mechanisms to help prevent prices from slipping below effective loan forfeiture levels, thereby limiting program costs that might otherwise accrue to the government as a result of substantial loan forfeitures. These include offering CCC sugar to processors in exchange for surrendering rights to import tariff-rate quota sugar; purchasing sugar from processors in exchange for surrendering tariff-rate quota sugar; and removing sugar from the human food market by purchasing sugar from processors for resale to ethanol producers for fuel ethanol production.

### **Sugar Purchases and Exchanges for Import Rights**

To dispose of sugar owned by CCC without increasing the risk of loan forfeitures, the farm bill authorizes USDA to transfer ownership of CCC-owned sugar in exchange for rights to purchase tariff-rate quota sugar, or certificates of quota entry, which carry a low tariff rate or zero tariff. From July to September 2013, USDA completed four sugar “exchanges” in an effort to bolster market prices and forestall loan forfeitures of some 2012 crop sugar. Two exchanges involved bids made by refiners and brokers for sugar acquired by USDA from processors as a result of loan forfeitures in return for surrendering import rights. Two other exchanges involved USDA purchasing sugar from processors, which then was exchanged for import rights that cane refiners and brokers surrendered to USDA. The latter two initiatives were taken to reduce the amount of sugar expected to be supplied to the U.S. market and were implemented by USDA using 1985 farm bill authority. This cost reduction provision authorizes USDA to purchase a supported commodity deemed to be in surplus if such action results in program savings.

### **Feedstock Flexibility Program for Bioenergy Producers**

If market prices fall to levels that threaten to result in loan forfeitures, the Secretary of Agriculture may purchase surplus sugar and sell it to bioenergy producers to avoid forfeitures. In the event that forfeitures of sugar loans do occur, the Secretary is required to administer a sugar-for-ethanol program using domestic sugar intended for food use. The objective of this Feedstock Flexibility Program (FFP) is to permanently remove sugar from the market for human consumption by diverting it into a non-food use—ethanol. When the Secretary activates this program, USDA will purchase surplus and other sugar acquired from processors and then sell that sugar to bioenergy producers for processing into fuel-grade ethanol and other biofuels.

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<sup>16</sup> Federal Register notice of May 4, 2015, at <https://www.federalregister.gov/articles/2015/05/04/2015-10253/sugar-from-mexico-continuation-of-antidumping-and-countervailing-duty-investigations>.



Competitive bids would be used by USDA to purchase sugar from processors and also to sell that sugar (together with any sugar forfeited by processors) to ethanol producers. An exception to the requirement to activate this program is that forfeited sugar may be sold back into the market for human food use in the event of an emergency shortfall of sugar. In August and September 2013, USDA activated this program as remaining loans came due and sugar prices headed below effective support levels (**Figure 3** and **Figure 4**).

## Administrative Year in the Sugar Program

The text box below sets out specific dates, and calendar windows, for undertaking key administrative actions that are integral to managing the U.S. sugar program.

### U.S. Sugar Program Calendar of Administrative Actions

**In July**, DOC is to calculate the “export limit” for Mexican sugar for the U.S. market for the upcoming marketing year (October-September), which is to be 70% of the projection of the “target quantity of U.S. needs” for Mexican sugar based on the USDA’s July World Agricultural Supply and Demand Estimates (WASDE) report. The export limit becomes effective October 1.

**On September 1**, the Secretary of Agriculture is to announce the amount of sugar (if any) that the Commodity Credit Corporation (CCC) is to purchase prior to the end of the current marketing year (September 30) to avoid loan forfeitures. Any purchases are to be resold for ethanol production under the Feedstock Flexibility Program (FFV).

**In September**, a subsequent calculation of the target quantity of U.S. needs is to be carried out based on the September WASDE with the export limit to remain at 70% of the target quantity. The new export limit quantity cannot be below the export limit announced in July.

**By September 30**, USDA must announce sugar loan rates for the year beginning October 1.

**By October 1**, USDA is to establish domestic human consumption of sugar for the new marketing year (October-September) and also establish domestic marketing allotments for sugarcane and sugar beet processors.

**By October 1**, the Secretary of Agriculture sets initial sugar import quotas for the new marketing year (October-September) at the minimum levels that are required to comply with international trade agreements, except for refined sugar.

**By October 1**, USDA is to announce the amount of sugar, if any, the CCC is to purchase in current crop year that is to be made available for sale under the FFV, and to re-estimate this amount and provide notice by Jan. 1, April 1, and July 1.

**From October 1 to March 31**, the Secretary of Agriculture may increase the import quota for refined sugar, but only in the event of war or natural disaster.

**In December**, DOC is to recalculate the target quantity for Mexican sugar for the current marketing year based on the December WASDE report. The export limit is to be raised to 80% of target quantity as of January 1. The new export limit quantity cannot be below the September export limit.

**In March**, DOC is to recalculate the target quantity for Mexican sugar based on the March WASDE report. The export limit is to be raised to 100% of target quantity as of April 1. The new export limit quantity cannot be below the December export limit.

**Prior to April 1**, DOC may increase the export limit on Mexican sugar to address potential shortages in the U.S. market.

**From April 1**, the Secretary may increase the Overall Allotment Quota and the tariff rate quotas that restrain imports of sugar in the event of an emergency shortfall of sugar.

**From April 1**, tariff rate quotas on imported sugar may be increased as long as doing so will not threaten to result in forfeitures under the sugar loan program.

**After April 1**, DOC may increase the export limit on Mexican sugar in response to a written request from USDA citing the need for additional imports of Mexican sugar.

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