



BRAZILIAN SUGARCANE INDUSTRY ASSOCIATION

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Mrs. Mariann Fischer Boel
Commissioner for Agriculture
European Commission

São Paulo, 25 January 2010

Dear Mrs. Commissioner Fischer Boel,

With regards to the request made by European sugar producers and some European Union Member States to increase exports above the ceiling of 1.374 million tonnes of sugar consolidated at the World Trade Organisation, the Brazilian Sugarcane Industry Association (UNICA) would like to draw your attention to the potential adverse effects of such a decision, based on the following elements:

In relation to market disruptive consequences

- The production surplus that the European Union is currently facing is the result of large stocks accumulated over previous sugar campaigns, when world sugar prices were lower than the EU price. The existence of these surpluses is a clear demonstration that the EU sugar reform adopted in 2006 did not reach all its objectives. As a consequence, the EU externalizes its surplus problems on world markets. However, **this surplus of sugar in the European Union could well be used by downstream domestic users, such as the yeast, chemical and biofuels industries. These sectors have not been consulted by the European Commission on the possibility to exceed the agreed export limit.** A decision of the kind would put their industries at a risk of shortage as arbitrage would be open between exports on a profitable global market and sales on the EU market.

In relation to global trade negotiations

- The decision would contradict the alleged EU's ambition to conclude the multilateral trade negotiations at the Doha Round. **It would also set a dramatic precedent as per the results of previous panels (e.g. milk) where the EU's trade partners did not resume exports when global market trends returned to a favourable situation.**

In relation to legal interpretation

- The conclusion of the Dispute Settlement Body (the "DSB") in the Panel and Appellate Body Reports '*European Communities – Export Subsidies on Sugar*' requires the EU sugar regime to be put in conformity with its international obligations. As a consequence of this decision, the EU proceeded to the reform of its sugar regime in 2006, which provisions are detailed in Regulation 2006/318. Since

the EU never exported sugar above the ceiling bounded at the WTO after the reform, the conformity of the new sugar regime has never been assessed in the light of the finding of the conclusion of the DSB. However, **the eventual decision of the EU to allow sugar exports above the ceiling would require an assessment of the SDB findings to determine whether such exports could still be considered as cross-subsidised, focusing mainly on available quantities and marketing campaigns under consideration.** We would therefore urge the European Commission to defer any decision on the matter until its legal services have advised on the interpretation of the panel - expected in February 2010- and submit their interpretation to the WTO for prior assessment of conformity.

- In addition, a decision to allow exports above the WTO ceiling could have adverse long-term consequences for the sugar market as the EU could find itself with even larger surpluses to export in the future sugar campaigns when global prices return to lower levels. As farmers are now planning their sowing for the future campaign, **a positive decision by the European Commission to allow exports above the WTO ceiling would trigger additional sowings for the next campaign, leading to additional surpluses that would have to be exported. When international sugar prices return below the EU price, it makes no doubt that the EU sugar would once again benefit from cross-subsidization, putting the European Union in clear infringement of its international commitments.**

In view of the above mentioned considerations, we trust that your services will allow the necessary time for consulting with the impacted industries and the parties to the EC-Export subsidies on sugar WTO panel – Australia, Brazil and Thailand –, and for considering all the significant consequences such a decision would entail. In the meantime we remain, yours sincerely,



Marcos Sawaya Jank
President and CEO

CC: Klaus-Dieter Borchardt, Head of Cabinet
Søren Schönberg, Member of Cabinet
Jean-Luc Demarty, Director General for Agriculture
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