Response of Tate & Lyle Sugars

Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union – Trade and Investment

Context of our evidence

1. Tate & Lyle Sugars is the largest cane sugar refiner in Europe and has been refining cane sugar on the bank of the Thames in Newham, East London, since 1878. There are around 800 full time employees at the plant. This is the only cane refinery now operating in the UK. When Britain joined the EU there were six cane refineries. Cane sugar refining has been a manufacturing activity in the UK since the 1700s. All of our cane sugar raw material is purchased through the European Union's trade policy.[1]

2. Cane sugar refiners compete with beet sugar producers in a European sugar market that is heavily regulated by the European Union Common Agricultural Policy ("CAP"). The European sugar market is heavily protected by punitive import duties on cane sugar[2], our raw material, in order to protect the European beet sugar sector. These import duties typically double the cost of our raw material relative to beet sugar producers.

3. The only raw material we can source at reduced or zero duty is through the various preferential trade agreements the EU has. The suppliers allowed access to these agreements account for just 5 percent of global trade in sugar and include some of the highest cost and most challenged sugar producers in the world. An important tool to address these challenges for many of these suppliers is access to EU development funds in a timely and effective way. This does not appear to have been the case to date.

4. The cost of this preferential sugar to us is artificially inflated by the basic protectionist trade structure despite it being duty free or subject to reduced duties. This is because we are forced to pay a premium above the market price to this limited group of preferential suppliers that partly to largely reflects the avoided cost of the basic punitive import duty.

5. As a result, our competitiveness as a business is almost entirely dependent on Europe's trade and agriculture policies.

6. The European Commission has taken a number of decisions in recent years which have favoured beet sugar relative to cane sugar[3]. This will be further compounded by the recent political agreement on the CAP. This agreement will see European beet sugar producers largely freed from regulation, particularly production constraints, from October 2017[4]. In contrast, cane sugar refiners will continue to face strict and punitive constraints on access through trade to cane sugar raw material.

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[1] For more information see our campaign website www.saveoursugar.eu

[2] Currently €339 per tonne for raw sugar and €419 EUR per tonne for refined sugar (Chapter 17 of Council Regulation 1549/2006), supplemented by variable additional import duties that come into force when world prices for sugar are low, and increase as world prices fall further (see Article 141 of Council Regulation 1234/2007, implemented by Article 36 and 37 of Commission Regulation 951/2006). This variable duty is currently suspended.

[3] These have been challenged by us in the General Court of the European Union in actions T-279/11, T-103/12, T-335/12 and T-225/13.

[4] See http://ec.europa.eu/agriculture/cap-post-2013/agreement/index_en.htm

Question 1 – What are the advantages and disadvantages of the EU's competence over trade and investment, particularly in relation to international trade and investment negotiations?

7. The EU and UK do not share the same priorities in terms of trade policy for agriculture and, specifically, sugar. This means that UK priorities are reduced by working through the EU. This has resulted in a trade diverting effect for the UK.

8. A good example of this is the EU-Central America Association Agreement currently being implemented. This region includes some of the most competitive cane sugar producers in the world. They typically export between 1.9 and 2.6 million tonnes of sugar per year[5], yet have been awarded an import quota of just 150,000 tonnes. This means that as a European cane refiner we can only access around 7 percent of sugar exports from this key global raw material supplier without facing punitive import duties.

9. The European beet sugar sector argue that European trade policy should not allow cane sugar to be imported under this and future free trade agreements and that sugar should be treated as a special, exempt product. For instance, the European Beet Growers Confederation ("CIBE") dedicate a chapter of their 2012 congress resolutions to trade, arguing that "sugar, isoglucose and sweetened products be excluded from the free trade agreements…" and that extra imports are a "real and unacceptable threat" which risks security of supply for Europe[6].

10. These arguments are in stark contrast to UK Government policy, which says "we strongly believe that the sugar beet and sugar cane industries should be afforded the opportunity to compete on an equal basis" and that removing the beet quotas without a parallel reduction in import duties would leave EU cane refineries in a "perilous position"[7]. This policy is endorsed by the House of Lords[8]. Clearly the EU decision that will now see the beet sector unleashed from production constraints, whilst continuing with extremely high trade barriers, is highly asymmetrical and could not contrast further with the UK Government position.

11. Indeed, the power of the beet sector is so great that the European Commissioner for Agriculture & Rural Development simply repeats the arguments on restricting trade. Justifying the deal to remove quotas, allow unlimited beet sugar exports, but keep punitive cane sugar import duties, he comments "Eliminating the quota only removes internal rigidities and offers opportunities for sugar processors, without one additional kilogram of sugar import from non-preferential country suppliers."[9]

12. This protectionist approach to trade in agricultural products means that European cane refiners have duty free access to less than 2 percent of the 43 million tonnes of cane sugar exported by the world's ten leading cane sugar exporters[10].

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[5] International Sugar Organisation statistics show cane sugar exports averaging 2.27 million tonnes over the most recent 5 year period for which data is available, from 2007 to 2011.

[6] See paragraphs 42 to 47 of the CIBE Congress 2012 Resolutions at http://www.cibe-europe.eu/img/user/36%20Congress%20Resolutions%20Reims%202012%20EN%20final%20(3).pdf

[7] See the Government response to the House of Lords EU Committee D report of the EU Sugar Regime at http://www.parliament.uk/documents/lords-committees/eu-sub-com-d/sugar/government-response-eu-sugar-regime.pdf

[8] See the final report of the House of Lords enquiry into the EU Sugar Regime at http://www.parliament.uk/documents/lords-committees/eu-sub-com-d/sugar/sugarreporteng.pdf

[9] See http://www.german-retail-blog.com/2013/03/25/eu-commissioner-for-agriculture-talks-sugar/

[10] International Sugar Organisation ("ISO") 2012 Yearbook. The ISO is the intergovernmental body on sugar. See http://www.isosugar.org/

13. In practical terms, UK jobs have been lost as a result of this[11]. This has happened because we have not been able to access sufficient supplies of raw material at competitive prices through a European trade policy that is protectionist. It remains protectionist in response to extreme lobbying pressure from the European agricultural sector. Indeed, the European Association of Sugar Manufacturers (CEFS) has recently been named one of the ten most effective trade associations in Brussels[12].

14. Production at our Thames Refinery has fallen from around 1.1 million tonnes per annum in 2009 to around 600,000 to 700,000 tonnes per year subsequently. This drop in production is a direct result of the European policy constraints on raw sugar imports supplying our UK manufacturing plant. The trade diverting consequence has been a sharp drop in UK white sugar exports and an increase in white sugar imports from other EU countries, particularly France and Germany[13]. This European policy choice has exported UK jobs to Continental Europe.

15. Not only that, but as a result of Europe's restrictive trade and agricultural policies sugar prices in Europe are around double what they are on the global market. EU prices are currently around €700 per tonne in contrast to a world market price of €370[14].

16. Further, the EU could most likely have achieved a much better outcome for its offensive interests in trade negotiations had it been prepared to offer more access to its agricultural markets. This is particularly the case given that many of the developing and fast growing markets Europe is looking to access typically have a comparative advantage in production of agricultural raw materials such as cane sugar.[15]

17. It is hard for us to see how European protectionist trade policy on agriculture and, specifically, sugar will ever be aligned with the more free-trade orientated UK position. Whilst a sensible balance will always need to be struck between beet and cane, it seems to us that the current situation is highly asymmetrical and is likely to remain so whilst the agricultural sector remains such a strong lobby in so many key EU member states. A UK policy would almost certainly be more balanced.

Question 3 – What are the advantages and disadvantages of the current division of competence over export and import controls and export credits?

18. All of the cane sugar raw material we use is imported under the strict import controls laid down by European regulations aimed at protecting European agriculture. Although we do not agree with the protectionism itself, the import controls in sugar work well on a practical level.

19. However, a very significant disadvantage of the division of competence of import controls is that it is used by the European Commission to avoid justice in the European Courts. For instance, national governments are charged with "mailbox" tasks such as collecting import licence applications and forwarding them to the European Commission. The European Commission point to these "mailbox" tasks as being national government implementing measures that mean legal challenges to the Commission Regulations underlying them will not be heard by the European Courts. This, despite the fact that national courts in member states have no power to rule on these regulations.

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[11] Around 50 jobs have already been lost at Thames Refinery due to a lack of access to competitive raw material and the refinery is now forced to operate for just 4 to 5 days per week as a result.
[12] See APCO Worldwide and EuroActic survey results, 25 July 2013, at http://www.apcoworldwide.com/content/News/press_releases2013/trademarks_brussels0725.aspx
[13] Official trade data supports this.
[14] See European Commission data at http://ec.europa.eu/agriculture/sugar/presentations/price-reporting_en.pdf
[15] For instance, Central America, India, Philippines, the Mercosur region and Thailand, amongst others.

20. See, for instance, the judgement of the European General Court in our first application in the cases referenced in paragraph 6[16].

21. This is an extremely serious consequence for us as it could mean that the European Commission are able to hide from justice in areas that they have complete legal competence over by citing this purely technical division of competence on import controls.

Question 6 – What future challenges / opportunities might we face on trade and investment policy and what impact might these have on the UK national interest?

22. The Lisbon Treaty has meant that trade policy is now a co-decision process with the European Parliament and European Council being co-legislators. Our experience of this process to date suggests that the UK is even less likely to see its trade policy ambitions met.

23. Our experience is that the European Parliament is more susceptible to pressure from the agricultural lobby than both the Council and European Commission. This will mean that ambitious trade agreements that include agriculture will be even harder to conclude. This will make it increasingly hard for the EU to negotiate the best deals for its own exporters.

Question 7 – Are there any general points you wish to make which are not captured above?

24. Our evidence is factual and relates specifically to the situation we face in the sugar market in which we operate and our experiences we have had with stakeholders in the UK and the European Union.

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[16] See paragraphs 36 to 73 of the judgement at http://curia.europa.eu/juris/document/document.jsf?text=&docid=138081&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=561746