



The EU can contribute to the development of communities in the poorest countries in the world.

The EU can have a more balanced and competitive sugar market.

## **LEAST DEVELOPED COUNTRIES (LDCs)**

### **CLARIFICATION AND EXPLANATORY MEMORANDUM OF THE LDC PROPOSAL ON SUGAR REFORM OF 3<sup>RD</sup> MARCH 2004**

**18<sup>th</sup> February 2005**

The LDC Sugar Group comprises the LDC Brussels Sugar Group, grouping together Ambassadors of the Least Developed Countries (LDCs) with substantial interest in sugar, and the LDC London Sugar Group, grouping together the LDC sugar industry representatives.

## **EXECUTIVE SUMMARY**

In the context of the Commission's proposal of 14th July 2004, this paper is intended to provide further clarification of the LDC proposal of March 3<sup>rd</sup> 2004.

This memorandum outlines how sugar reform on the basis of a longer transitional period, a remunerative price, a managed market and accelerated access, can contribute to significant development of the LDC sugar industries. As such it provides further clarification of the LDC proposal on sugar reform of March 3<sup>rd</sup> 2004.

The Least Developed Countries (LDCs) have submitted to the European Union a proposal for the adaptation of the progressive tariff elimination for sugar imported from LDCs as established under Council Regulation 416/2001, the Everything but Arms initiative (EBA) in an attempt to give a constructive input to the reform process within the EU while highlighting the unique opportunity the EU has to contribute to LDC development through trade opportunities for sugar.

### **The Objectives of the LDC Proposal are:**

#### **Remunerative Prices**

- The price reductions as proposed in the July 2004 proposal of the Commission of 33%<sup>1</sup> and 37%<sup>2</sup> are unworkable. Remunerative prices are needed to provide investors and financiers adequate returns on investment needed to generate investment and development.

#### **A Longer Transitional Period**

- Any transitional period needs to be much longer than the three years suggested in the July 2004 proposal of the Commission, and needs to extend beyond the date on which duty free access becomes possible for the LDCs. To make a contribution to sustainable development and poverty alleviation, a period of ten years has been suggested by the LDCs as being essential.

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<sup>1</sup> 33% reduction applies to the white sugar intervention price and to the EBA-SPS price of 496.80 Euro

<sup>2</sup> 37% reduction applies to the minimum beet price and to the ACP guaranteed price of 523.70 Euro

### A Managed Market

Management of the European sugar market through quotas and import protection is a condition for maintaining remunerative and sustainable market prices over a transitional period, with any necessary price cuts being modest and gradual, for the benefit of European sugar producers and farmers as well as the LDCs and ACP countries.

### Accelerated but Managed Access for LDCs

Accelerated access to the EU market would generate further incentives for investment in the LDC sugar industries before and during the transitional period. This would be achieved through the creation of a second stream for LDC sugar in addition to the current first stream access arrangements, thereby establishing managed market access on the basis of tariff quota.

### The Benefits of the LDC Proposal are

#### For the EU

The implementation of structural sugar reform in a manner that allows the EU sugar producers and farmers, the LDCs and the ACP countries to gradually adjust to a more competitive EU sugar market, while providing meaningful access to developing countries, and thereby generating substantial and sustainable (rural) development in the LDCs.

#### For the LDCs

The creation of a real investment perspective for the LDC sugar industries, based on the time frame and price levels that investors and financiers require, and the creation of a sustainable, long-term supply relationship with the EU, for one of their most important export products.

#### With Regard to the WTO

The implementation of a reform of the sugar regime in a way that is fully WTO compatible, anticipates the outcome of the DOHA round, and fulfils the WTO objectives with respect to LDC development.

#### With regard to the EBA initiative / the General System of Preferences (GSP)

The creation of meaningful and sustainable, long-term access to the EU for one the most important LDC export products, and the generation of substantial, sustainable development in the LDCs.

## **INTRODUCTION**

The LDC Sugar Group represents 22 sugar producing countries who are signatory to the EBA Framework Agreement.<sup>3</sup>

The LDC Sugar Group comprises the LDC Brussels Sugar Group, grouping together Ambassadors of LDC countries with substantial interests in sugar, and the LDC London Sugar Group, grouping together sugar industry representatives of these same countries.

In the context of the review of the EU sugar regime and renewal of the EUs GSP currently underway, the LDCs propose that the progressive tariff elimination for sugar, granted under the EBA initiative be extended and adapted to allow further development of the LDC sugar producing countries and their local communities and to allow long term development of sugar as a competitive product for export to the EU. The LDCs recognize the objectives of the EU in regard to global trade reform and market liberalization, but are of the view that this can go hand in hand with fulfilling the EBA development objectives. The LDC proposal contributes to the coherence of EU policy, by linking trade, development and agricultural policy, with a view to LDC development.

### **Sugar's Contribution to Development in LDCs**

Sugar is produced in more than 100 developing countries. Sugar has played, and continues to play, a significant role in the development of many of the world's poorest countries.

Sugar is often among the first industries to attract large-scale investment. This is extremely important given that LDCs have very little formal investment.

Investments in the sugar industry make a major contribution to rural economies and the livelihoods of the people living in those regions.

In many LDCs, sugar companies provide an extensive range of social and welfare services, including healthcare, education and housing, for their workers and families, and creating employment for thousands of permanent and temporary employees.

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<sup>3</sup> The framework agreement on EBA sugar first signed on 23<sup>rd</sup> of October 2001

## **FURTHER CLARIFICATION**

In this section the LDCs wish to provide further background, explaining the reasons for and considerations behind their proposal of 3<sup>rd</sup> March 2004.

### **Tariff Quota – a Feasible Solution**

Following the EU's initiative to establish duty-free access for all LDC imports except arms, the LDCs are of the view that managed access to an orderly market, offering a remunerative and predictable price over an extended transitional period would be more attractive than unlimited access to a market that offers little if no investment perspective in terms of price level, price stability or duration.

For this reason, the LDCs have submitted to the European Union a proposal for the adaptation of the progressive tariff elimination for sugar imported from the LDCs as established under GSP (the EBA initiative). In so doing, the LDCs suggest a modification to the rules for LDC access under GSP, thereby facilitating the sugar reform process.

Alternatively other solutions could be found, for example:

- In the past, third countries have facilitated the introduction of quantitative restrictions by means of an exchange of letters with the EU. The LDCs could agree to an exchange of letters with the EU, by means of which quantitative restrictions could be implemented, without changing the GSP regulation.
- Another alternative could be the pre-establishment of LDC sugar import levels at which the European Commission will implement safeguard measures. Such pre-establishment could be made unilaterally by the European Commission, but preferably in agreement between the European Commission and the LDCs.

When taking into account the development interest of the LDC sugar industries, and the interests of most other stakeholders of the European sugar regime, it should be possible to find a workable system for introducing quantitative restrictions that are desired by all parties involved.

### **Suitable Administrative Procedures**

The system of import licensing should be such that the LDCs can effectively and responsibly control the export of their own products to the EU, whilst being free to export all qualities of sugar (including not only raw sugar but also white refined sugar and other high value added sugars) under the second stream, and that the system for issuing origin certificates should be such that the chances for fraud are eliminated.

### **Development Requires a Remunerative Price and a Ten Year Investment Perspective**

In presenting their proposal, the LDCs maintain one overriding objective: to generate socio-economic development in LDCs by means of investment in sustainable LDC sugar industries and on the basis of the EBA initiative.

Socio-economic development can be created through substantial investments in the upgrading and expansion of existing sugar factories, the establishment of new sugar production facilities and vertical integration into the production of white refined and value added sugars.

Generally, investments in the sugar sector in LDC countries require the intervention of international investors and financiers, and given the additional financial risks involved with investing in LDCs (with their exceptionally high country risk ratings), capital and loans can only be attracted if sufficient returns can be offered, for a suitable period after completion of a project.

In analyzing the investment opportunities in their sugar industries, the LDCs have concluded that the investment perspective offered by the Commission proposal is wholly insufficient in terms of price level, price certainty and duration to attract capital and financing for sugar and related projects.

The LDCs believe that the 33% and 37% price reduction as proposed by the Commission over three years will have a negative impact on the development potential of the LDC sugar industries and they therefore believe that a remunerative price level will have to be maintained for a period of 10 years in order to generate stable investment returns. It should be noted that sugar cane is an eight year crop, planted in the first year and harvested for at least another seven years.

The Commission's proposal with its lower price, lack of price stability and consistency, and short transitional period will lead to opportunistic exports to the EU, but will not provide enough start-up incentive for international investors and financiers to facilitate upgrading, expansion and vertical integration of the sugar industries in the LDCs.

### **LDC Sugar Industry Sustainability**

At the end of the proposed transitional period, the newly developed LDC sugar industries should be in a position to compete domestically and regionally as well to take advantage of opportunities in first world economies, including the European Union.

Independent research institutes have confirmed that many LDCs enjoy the natural conditions ideally suited for sugar production. While these countries need a start-up incentive provided by a remunerative price and transitional period thereafter these industries will be sustainable in the longer term: not only as competitive producers of cane sugar, but as environmentally friendly producers of cane sugar, and possibly diversify into the production of ethanol and value added sugars.

The LDCs do not ask for price support in order to compensate for inefficiency. They ask for remunerative price levels, needed to jump start investment in sugar industries that are sustainable after the end of the transitional period.

### **WTO Compliance**

The LDC proposal is compatible with WTO, as it is based on tariff quota, the Enabling Clause and justification of special treatment of LDCs by the WTO Dispute Settlement Panel. Further clarification on this point is given on annex 1.



## **CONCLUSION**

In making their proposal, the LDCs recognized the importance to all stakeholders of ensuring an orderly market arrangement for sugar in the EU, and particularly the importance of maintaining remunerative prices, based on a modest price reduction, over an extended transitional period which would preserve as far as possible the value of access for ACP and LDC sugar in order to promote their socio-economic development through sustainable trade.

In this clarification memorandum it was further explained that:

- The concept of duty free and quota free access as granted under the EBA initiative can be maintained in the longer term, while improving the development potential for the LDC sugar industries in the interim;
- Industry development requires a remunerative price and a reasonable (10 year) investment perspective;
- The LDC proposal is WTO-compliant.

More information about the LDC sugar group can be found on:

[www.ldcsugargroup.org](http://www.ldcsugargroup.org)

## **ANNEX 1: WTO Compliance**

**Article II GATT introduces the use of "Schedules of Concessions", in excess of which no duties may be levied. There is no legal WTO-objection against the introduction or increase of tariff-quota: a tariff-quotum consists of a reduced or zero tariff for a designated quantity of goods, to which the normal tariff, as provided for in the WTO-Schedules of Concessions, does not apply or is reduced.**

**Granting a reduced or zero tariff to a designated quantity of goods ought not to violate the principle of non-discrimination. According to the principle of non-discrimination, any advantage, favour or privilege granted by a contracting party to a product originating in any other country must immediately and unconditionally be accorded to the like product originating in all other contracting parties. However, there are permitted exceptions to Article I GATT, notably for free trade areas, and for special and differential treatment in favour of developing countries.**

**The increase of the existing tariff quotum or the introduction of a separate tariff quotum within the EBA-framework, as provided in this proposal, would only apply to the LDCs, thus excluding all other sugar producing contracting parties and violating the principle of non-discrimination.**

**The Everything But Arms-initiative is incorporated in the EU's GSP. The GSP is based on the Enabling Clause, a decision taken by the contracting parties in 1979. The Enabling Clause provides that contracting parties may, contrary to the provisions of Article I GATT, accord differential and more favourable treatment to developing countries, without according such treatment to other contracting parties.**

**This exception to the principle rule of non-discrimination is limited by certain boundaries set out in the Enabling Clause:**

- Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the GSP**
- Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT**
- Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the contracting parties, for the mutual reduction or elimination of non-tariff measures, on products imported from one another.**

- **Special treatment of the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.**

**Although the Enabling Clause allows developed countries to discriminate amongst themselves to the advantage of developing countries, it does not allow developed countries to discriminate amongst developing countries. However, the WTO Disputes Settlement Panel found there are two exceptions to this rule. One of these exceptions is the case of the LDCs.**

**According to the Panel in Report WT/DS246/R of December 1st, 2003 (India-EC dispute on preferential tariffs) it follows from the Enabling Clause that Least Developed Countries are considered a special group, justifying special treatment:**

***"The Panel is of the view that, in designing and modifying GSP schemes, paragraph 3(c) does allow for differentiation among developing countries, in the case of special treatment to the least-developed countries."***