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Tate & Lyle Bundaberg Ltd
Submission to
INQUIRY INTO INCREASING VALUE-ADDING
TO AUSTRALIA'S RAW MATERIALS

Summary

This submission is made by Tate & Lyle Bundaberg Ltd (TLB) with regard to the Queensland Sugar Industry.

New Sugar Industry legislation which will become effective on 1 January 2000 will retain as a core component the compulsory acquisition and single desk selling for both export and domestic sales of raw sugar.

While TLB agrees with the principles espoused in the drafting of this legislation for fostering innovation and value-adding we do not believe that they will be effective in practice given compulsory acquisition and single desk selling. Anticipated problems include:

- Uncertainty will exist over what is "innovative" and what is "sugar".
- It is unlikely companies will invest time and money in R&D if they are not certain that any benefits from research will accrue to them rather than the sugar industry as a whole.
- It is likely that "commercial negotiations" will favour the Queensland Sugar Corporation (QSC) to a very large extent due to the powers of compulsory acquisition.
- Negotiations with the QSC may be protracted which could close the window of opportunity which was available in the market place.
- Compulsory acquisition will increase the cost of final product to be sold by a company and may contribute to lost opportunities in a very competitive market place.

As a consequence of these practical problems, the proposed legislation is likely to continue to stifle innovation and value-adding in the Queensland sugar industry.

TLB contends that deregulating export marketing via a voluntary privatised export marketer and also deregulating the domestic market is a preferable option to the proposed structure and would overcome the practical problems outlined above and assist increasing value-adding in the Queensland sugar industry.

Background

Tate & Lyle Bundaberg Ltd (TLB) is involved in all aspects of the sugar industry including sugar cane growing and milling (seven factories), sugar refining, molasses production, rum and industrial ethanol production. and the manufacture of sugar milling equipment.

The Queensland Sugar Industry has been regulated since the first World War. The regulations have been regularly reviewed and modified.

Following the Hilmer report and the COAG agreement, the industry was again formally reviewed in 1995/1996 by The Sugar Industry Review Working Party (SIRWP). The Working Party made 74 recommendations providing a "far reaching and balanced package" of continued regulation and new regulation.

Despite reservations by some sectors of the industry who had negligible consultation, Committee members who represented industry organisations and government departments gave unanimous support for the entire package. As well the Queensland and Federal Governments have formally endorsed implementation of all of the recommendations while the National Competition Council (NCC) gave qualified support.

The recommendations required the formation of a number of industry working groups to determine the detail of certain recommendations and the legislative changes necessary for implementation of the recommendations.

Although agreement could not be reached by some groups, the Government has prepared new legislation which will be enacted in the near future and will take effect from 1 January 2000.

Marketing

The SIRWP had as a core recommendation that compulsory acquisition and single desk selling of raw sugar continue.

The overwhelming argument (and assumed public benefit) for the retention of the Single Desk Seller (SDS) was the ability to earn a higher premium for sugar sold into Asia than would otherwise be the case. In our submission to the review, TLB disagreed with the SIRWP view and stated that the benefits claimed by the SIRWP for the SDS was based on tenuous grounds and in any event, if real, could be accrued by other means (i.e. a voluntary privatised export marketer).

Domestic market deregulation would remove all compulsory restrictions on domestic supplier-customer relationships and allow standard laws of commercial activity to prevail. However, in analysing this option, SIRWP believed that a number of significant implementation issues would arise from this approach. Consequently the SIRWP considered that domestic raw sugar prices should be set at export parity levels and also sort to promote opportunities for innovation and value adding. The SIRWP believed that their approach to domestic marketing arrangements delivered the benefits of domestic deregulation while maintaining the strengths of single desk selling.

QDPI Position Paper

One of the working parties which could not come to agreement was that for domestic marketing. The Queensland Department of Primary Industries (QDPI) subsequently produced a Position Paper expressing their views which was recommended to the Minister. While the paper was specifically for the domestic market the aspects discussed in regard to innovation and value-adding, apply equally to export marketing.

The position paper was based on the QDPI premise that marketing is a commercial activity the specific details of which, in general, should not be prescribed in legislation but should be subject to normal commercial forces. Prescriptive legislation was viewed as more likely to hinder rather than assist commercial best practice and its use should be minimised whenever practicable.

As a consequence the QDPI decided that the new legislation would contain no specific definition of export parity pricing or innovation. Instead, the QSC would have a general mandate to market raw sugar in a manner, which supports innovation, and specific detail of pricing arrangements shall be negotiated commercially.

The position paper noted a number of principles which had been proposed by the QSC in regard to the adoption of the SIRWP recommendations relating to innovation, value-adding and downstream processing namely:

- The integrity of the export marketing arrangements are paramount;
- Develop as flexible an approach as possible to innovation, etc in the domestic market;
- Enable acquisition of only the raw sugar equivalent of mill process streams;
- Price all domestic sales at export parity;
- Develop arrangements to ensure innovators capture the full benefit and bear the full costs;
- Enable innovators to manage quality issues; and
- Ensure only non-industry QSC directors consider innovation, etc.

While TLB agrees with the principles espoused by the SIRWP and the QDPI for fostering innovation and value adding we do not believe that they will be effective in practice. The QDPI noted a number of contentious issues arising from the above principles, namely:

What constitutes innovation, value-adding and downstream processing?

What constitutes raw sugar?

Is a different treatment warranted during the crushing season to the maintenance season?

Will the QSC be obliged to accept/acquire the product?

Will the mill be responsible for the costs associated with pool management of the sugar?

Should the QSC be treated as the destination of last resort?

Should the pool impact of such an outcome be shared by other pool suppliers? and

Is the QSC able to pursue value-adding opportunities for the benefit of the pool?

It was considered by the QDPI that a disputes resolution process would be used to resolve issues of dispute concerning the nature of raw sugar while disputes concerning innovation could be resolved through the patent process.

As a consequence of the above contentious issues, the QDPI made the following recommendations:

Recommendation 9 - That QSC be accountable to the Minister for Primary Industries for the development and implementation of a policy that encourages initiative innovation value-, adding and downstream processing of Queensland sugar which maintains the integrity of its powers of acquisition of raw sugar.

Recommendation: 10 - That the definition of sugar in the Sugar Industry Act 1991 be used as the definition of sugar in the new Act for the purpose of acquisition of sugar and that innovative and what constitutes raw sugar be the subject of commercial negotiation between the QSC and its clients

The problem with these recommendations include:

- Uncertainty will exist over what is "Innovative" and what is "sugar".
- It is unlikely companies will invest time and money in R&D if they are not certain that any benefits from research will accrue to them rather than the sugar industry as a whole.
- It is likely that "commercial negotiations" will favour the QSC to a very large extent due to the powers of compulsory acquisition.
- Negotiations with the QSC may be protracted which could close the window of opportunity which was available in the market place.
- Compulsory acquisition will increase the cost of final product to be sold by a company and may contribute to lost opportunities in a very competitive market place.

As a consequence of these practical problems, the proposed legislation is likely to continue to stifle innovation and value-adding in the Queensland sugar industry.

As an illustration of the difficulties, if a company saw an opportunity to supply a niche export market (say mill white sugar bagged for direct consumption to Indonesia) then there would be uncertainty if the QSC would allow that company to export that product because it may be seen that the product would be competing with the QSC in the export market. By the time this issue was resolved the opportunity may well have disappeared. Further the price the QSC would sell the raw equivalent to the company for would be higher than the actual cost of producing the product. In a competitive market like international sugar this extra burden may make the company uncompetitive.

TLB contends that deregulating export marketing via a voluntary privatised export marketer and also deregulating the domestic market is a preferable option to the proposed structure and would overcome the practical problems outlined above and assist increasing value-adding in the Queensland sugar industry.