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CIBE POSITION ON THE TRANSALTLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

As the discussions between the US and the EU are ongoing, the European Beet Growers would like to express their strong concerns on the potential negative impacts of the Transatlantic Trade and Investment Partnership (TTIP) on the EU sugar beet sector.

CIBE asks the Commission to **avoid any market access concession to the US on sugar and sugar containing products as well as on ethanol.**

❖ Concessions on imports of sugar or sugar containing products are not justified

- The opening of the European market to **US imports of sugar** would represent a **destabilizing factor** for a balanced EU market. European beet growers and the EU sugar industry have already undergone a drastic reform of the Common Market Organization (CMO) in 2006. 150.000 farmers have abandoned sugar beet cultivation as a result of the closure of 83 factories all over Europe. In this restructuring process, 22.000 direct jobs have been lost, mostly in rural areas where sugar represented an important source of income and livelihood. Moreover, the reform of the sugar CMO foreseen after 30th September 2017 will certainly have further severe impacts on our sector. In particular, the abolition of market management measures of the EU sugar market as from 1st October 2017 will put the market balance at risk. **The TTIP should not lead to further imbalances in the market** that would result in further sugar factory closures and reduction in beet area in the EU (it is estimated that each 100 000 t of additional sugar imports per year would result ultimately in the closure of 1 sugar beet factory in the EU). **The Commission should avoid any concessions (tariff reduction or tariff rate quotas (TRQs)) which could jeopardize the sustainability of the EU sugar beet sector.**

- **The US sugar sector is highly regulated**; import tariffs and TRQs for sugar as well as price support are the backbone of the US sugar policy defined in the Farm Bill. These measures are accompanied by a control of the quantities which can be sold on the market (both for domestic sugar and third countries sugar), and by a loan system in which the federal government operates as a safety net buyer. **Market access concessions with such policies in place will be detrimental for EU sugar beet growers**.

- **The US** is a **net importer of sugar**. **Therefore, there is no justification for any market concession**. CIBE asks the Commission to call for the application of the **Net Exporter Clause,** stipulating that concessions should only be granted for those sectors in which the US is already a net exporter. CIBE notes that the US has implemented this clause in other trade agreements (e.g. US-Colombia, US-Peru and US-Morocco FTAs). Moreover, the US administration has always excluded sugar and sugar products from bilateral negotiations when it represented a risk for the US sugar sector (e.g. US-Australia FTA).

- Furthermore, **the entering into force of NAFTA provisions for sugar in 2008 has generated a structural surplus in the US market** due to duty-free quota-free imports from Mexico. This situation leads to direct interventions of the US Department for Agriculture so as to withdraw sugar from the US market through the implementation of market management measures **(swap operation)** that are highly questionable at a time where the EU Commission disengages itself from the management of EU agricultural markets and of the sugar market in particular.

- In such a context, the **risk of triangular trade and swap** would be also high. Furthermore, the strict respect of the current EU set of **rules of origin for sugar and high sugar content products is of great importance**. In particular, the three following rules must be respected:

- Exclude that any kind of refining operation could confer the US origin.
- Avoid the possibility of cumulation for those countries that already have an FTA with the US in place.
- The rules on minimal operations and non-originating sugar must reflect the European approach, with no concession to the NAFTA set of rules.

CIBE opposes strongly the direction that would relax the EU rules of origin so as to reconcile them with the NAFTA rules of origin, to the detriment of EU sugar producers.

- Every concession on sugar will **erode even further the preferences granted to ACP/LDC countries**. The European Union is the reference market for many cane growers in developing countries. The loss of preferential access to the EU market represents a serious threat to their income and to the viability of their production. This is even more relevant as the EU has recently concluded several FTAs (Colombia, Peru, Central America, the Ukraine and Canada) that include TRQs for sugar or sugar products which already put pressure on the imports from ACP/LDC countries**.**

- Finally, **the productive structure of the US sugar sector is totally different to the one in place in the EU**. It is based on large commercial farms that resort heavily to the cultivation of GM sugar beet (90% of the market). Moreover, in the case of sugar cane, monoculture is the norm, while the EU is implementing a **reformed CAP which promotes diversification and rotation as the cornerstones of greening measures, which put additional constraints to EU farmers**.

- CIBE reiterates that market access concessions on sugar negotiated in FTAs are detrimental for the EU beet sugar sector sustainability and considers that negotiations on sugar must be restricted to the WTO forum.

It is interesting to note that the American Sugar Alliance (ASA) has also taken a similar position to the CIBE and CEFS position. In answering a public consultation on the issue the ASA states that: *"Given that the U.S. and the EU are both large net importers of sugar and that both have made extensive market access commitments in various trade agreements to the benefit of developing countries, there would appear no legitimate commercial reason to negotiate further market opening on sugar between the two."*

❖ Concessions on imports of ethanol are not justified

- **The US is the world's largest ethanol producer** (53 billion liters in 2011) **and by far the biggest exporter** (4.5 billion liters in 2011). Any opening to US subsidised ethanol exports would undermine the competitiveness of a strategic sector for the EU. The European ethanol sector, and especially the renewable ethanol sector, has invested heavily and is providing affordable raw material for fuel blends and many other applications. In addition, the EU Institutions are currently discussing reduced targets and higher sustainable criteria for bioethanol in the EU. The competition that the sector would face in the event of opening up of the EU market to the US imports would jeopardize the investments made so far to build production capacity and improve efficiency. The EU would favour a supply line from third countries to the detriment of a local, sustainable and reliable production: this is simply unacceptable.

- There is **a further potential risk of distortion of competition**. Indeed, the EU Institutions are discussing the future of biofuels from crops in the Renewable Energy Directive: the introduction of stricter criteria in terms of sustainability are on the table while the US has adopted a different approach for these biofuels and considers EU criteria as non-tariff barriers which should be eliminated. This US approach should be strongly opposed.

- The negotiation should be carried out with the aim of **preserving a key European sector** that provides the renewable fuel and energy that the **EU needs to fulfill its 2020 targets**.

- It is also to be noted that the **energy costs** in the US are decreasing significantly (development of shale gas in the US) leading to a competitive advantage vis-à-vis EU sugar and ethanol producers.

FACT SHEET

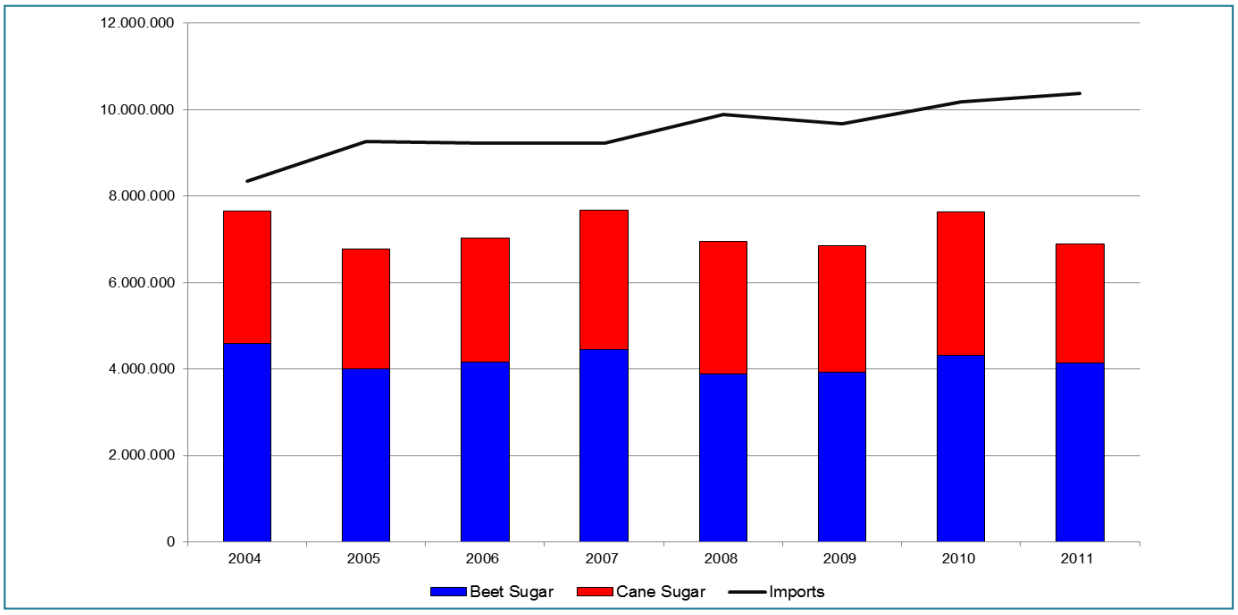
US Sugar and Ethanol production, policy and exports to the European Union

1 – US Sugar production, policy and exports to the European Union

US Sugar production and exports

The United States is the fifth largest sugar producer and fifth largest sugar consumer in the world. As shown in Graph 1, in recent years the net importer nature of the US sugar market has increased. US sugar production is obtained from both sugar cane and sugar beet; the proportion amongst the two feedstocks has remained constant over the years, with a predominance of beet sugar over cane sugar (respectively 60% and 40% of the production).

Graph 1: US Sugar Production by feedstock and consumption – period 2004-2011 –trsv (tonnes raw sugar value)

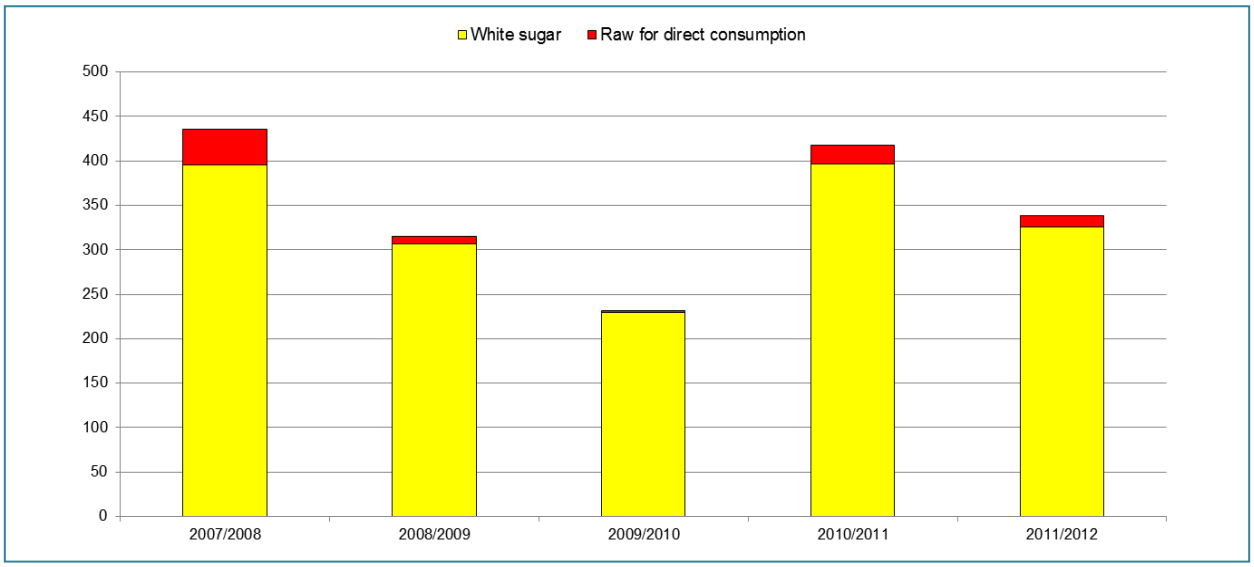


Source: ISO Sugar Yearbook 2012, Eurostat

Despite being a net importer, the US exports a certain quantity of sugar to the EU. According to the EUROSTAT database, in 2011/12 the US exported to the EU a total of 338.57 tonnes. In the period 2007-2012, average US exports to the EU amounted to 347 tonnes per year (Graph 2). The repartition sees a predominance of white sugar (326 tonnes) and only a very modest quantity of raw sugar for direct consumption (12.55 tonnes).

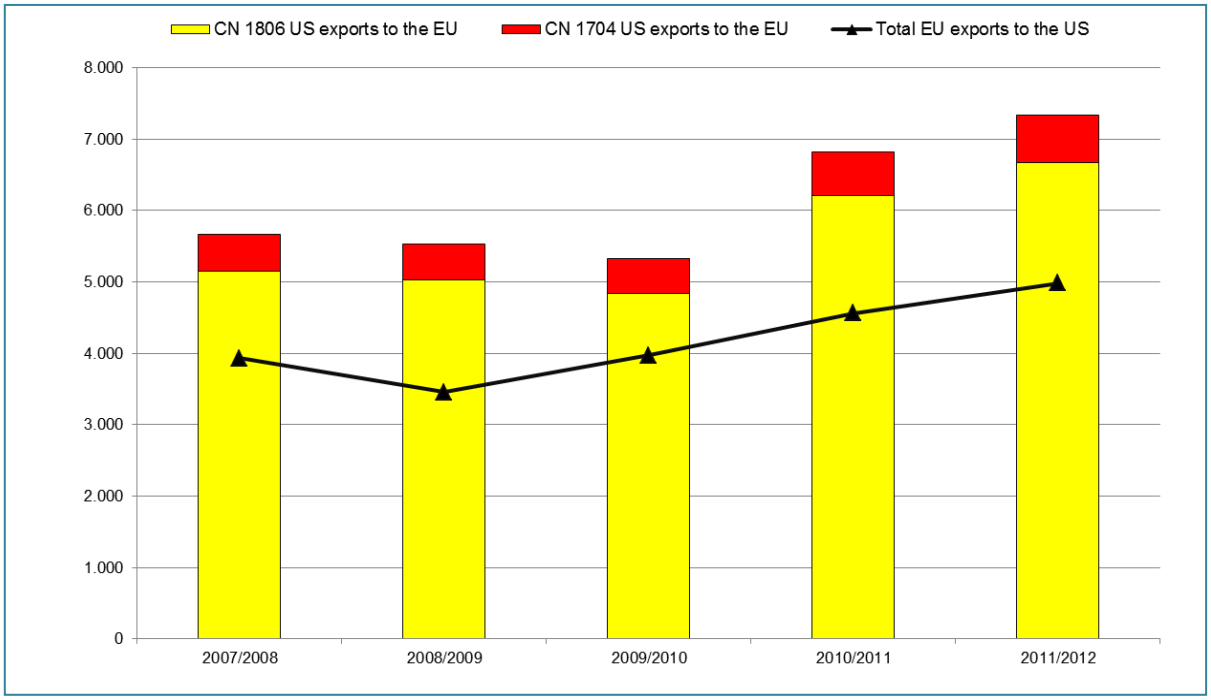
As far as high sugar content products are concerned, the quantities imported are slightly more significant. In 2011/2012, the US exported a total of 7 334 tonnes of CN 1704 and CN 1806 combined. Cocoa and chocolate products represented 90% of the imports. Graph 3 shows how the quantities exported by the EU to the US and by the US to the EU are comparable and remained constant up to the 2009/2010 campaign, with a predominance of US exports to the EU. In the last two marketing years, US exports to the EU have been increasing each year.

Graph 2: US exports of sugar to the EU by marketing year - Period 2007-2012 –trsv (tonnes raw sugar value)



Source: Eurostat

Graph 3: US and EU exports of Confectionery products marketing year – Period 2007-2012 – Tonnes



Source: Eurostat

Conclusion: The **US is a net importer of sugar. The US has implemented the Net Exporter Clause in other trade agreements (e.g. US-Colombia, US-Peru and US-Morocco FTAs). Moreover, the US administration has always excluded sugar and sugar products from bilateral negotiations when it represented a risk for the US sugar sector (e.g. US-Australia bilateral FTA). The European Union should invoke this clause** which stipulates that only those sectors in which the counterpart of an FTA is net exporter should be included in the agreement. Moreover, given the small volume of sugar traded and the high level of consumption in both areas, the eliminations of tariffs on sugar will bring little if any benefits to the EU sugar producers. In contrast, liberalization would raise the difficult issue of rules of origin.

US sugar policy

The US sugar industry has enjoyed trade protection since 1789 when Congress enacted the first tariff against foreign-produced sugar. Since then, the US government has continued to provide trade support and protection for its domestic sugar industry.

The framework for the current US sugar program has its roots in the so-called "Farm Bill" enacted in 1990. The farm bill is the primary vehicle for setting US sugar policy and that policy is currently based on three main pillars: price support through preferential loan agreements, domestic market controls and tariff-rate quotas. The 2008 US Farm Bill has been recently extended by the US Congress to 30th September 2013, after the House of Representatives failed to pass the bill on the 20th of June, notwithstanding the green light from the Senate.

The US Department of Agriculture (USDA) provides loans to sugarcane and sugar beet producers and processors that guarantee a minimum price regardless of the market conditions. At the end of the loan term (generally 9 months), sugar producers and processors make one of the two following choices:

1. Turn over to the government the sugar they produced as payment for the loan, or
2. Sell their sugar on the market if the going price is higher than the USDA loan amount
3. Sugar Producers benefit from the guarantee of 85% of the market, in addition US government is entitled to buy sugar and resell it to ethanol producers in times of market crisis.

Currently, the loan rate is US$ 18.75 cents per pound for raw cane sugar and US$ 24.09 cents per pound for refined beet sugar.

Domestic Market Controls

USDA allocates annually a share of the anticipated US sugar market to sugar producers. This allotment basically determines the amount of sugar an individual company is allowed to sell that year. However, these allotments can be, and often are, adjusted based on harvest conditions.

If companies produce more sugar than their allotments permit, they are forbidden to sell it. Instead, they must store the surplus sugar at their own expense until they have permission to sell in the future. The 2008 Farm Bill requires that these allotments be at least 85% of domestic sugar demand.

Marketing loans and marketing allotment programs are contingent on the use of feedstock produced in the US.

Tariff-Rate Quotas (TRQs)

US sugar imports are strictly controlled by TRQs. TRQs are the amount of sugar that can enter the country from abroad at a low or zero duty. The amount set aside for import under TRQs must meet US obligations to the World Trade Organization (WTO) – currently a minimum of 1,117,195 tons of raw sugar and 22,000 tons of refined sugar. The 2008 Farm Bill also allows USDA to increase sugar TRQs on April 1 of each year if a shortage is expected. The final volume of these TRQs is established annually by USDA, so as to be adjusted to the US domestic market. The US Trade Representative (USTR) allocates the TRQs among countries.

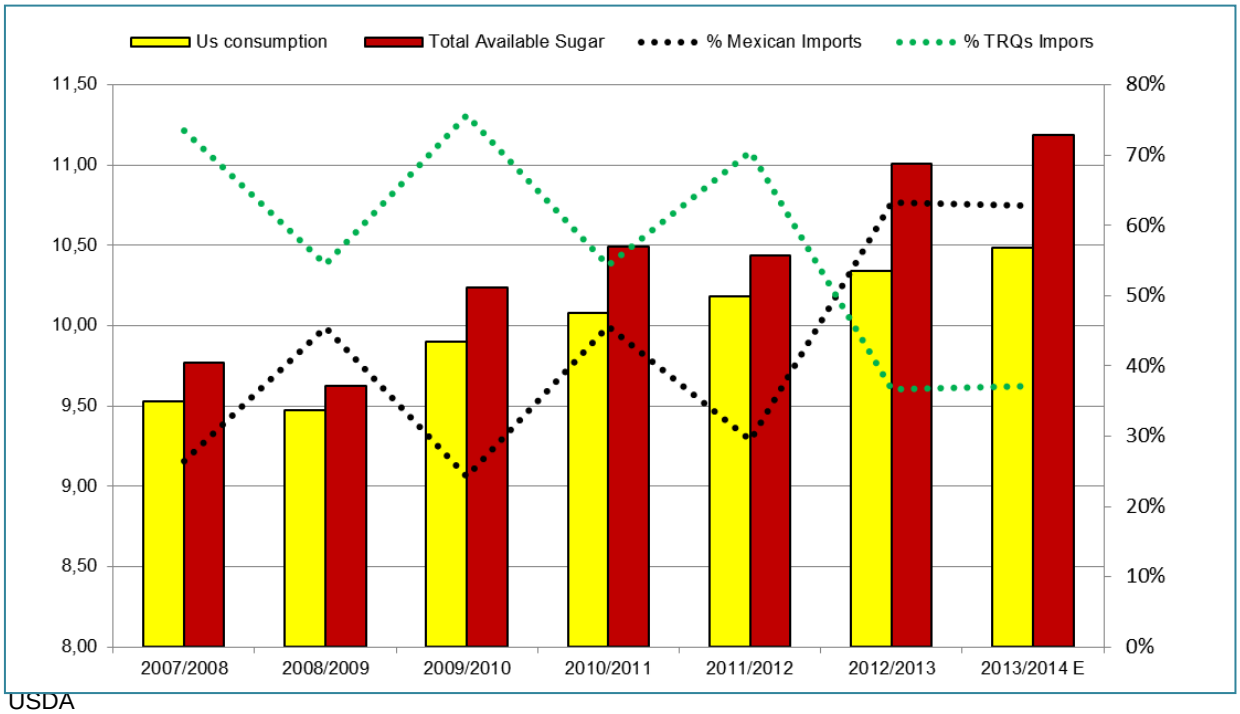
Today's TRQ allocation among 40 countries is based on US sugar trade as it existed from 1975 to 1981. Sugar production and markets have changed substantially during the past 30 years, yet the US sugar quota system does not reflect that evolution.

For 2012, the US allocated **a quota of 155,634 tons of raw cane sugar to Brazil** which will pay an import duty not exceeding 1.4 cents per kilogram. Additional sugar imports above TRQ levels are not practical or economical under normal market conditions due to stiff over-TRQ tariffs.

Sugar in the NAFTA (North American Free Trade Organization)

The entering into force of NAFTA provisions for sugar in 2008 has generated a surplus in the US market due to duty-free quota-free imports from Mexico. **The US market cannot be analysed without taking into account the sum of the US sugar production, the imports from Mexico and imports from third countries under TRQs**. Graph 4 shows that the surplus generated in the last 4 years, compared to the sugar consumption in the US, has increased significantly. The total surplus estimated for the 2013/2014 marketing year will be around 700.000 tonnes. Moreover, the ratio between the TRQs imports and Mexican imports has changed in last two MY years. Mexican sugar now represents 63% of the total US imports while the share of TRQs has decreased to 37%. It is to be noted that the US has increased significantly its isoglucose (HSFC) exports to Mexico.

Graph 4: US sugar surplus and share of imports – Million Tonnes – period 2008-2014



Source: USDA

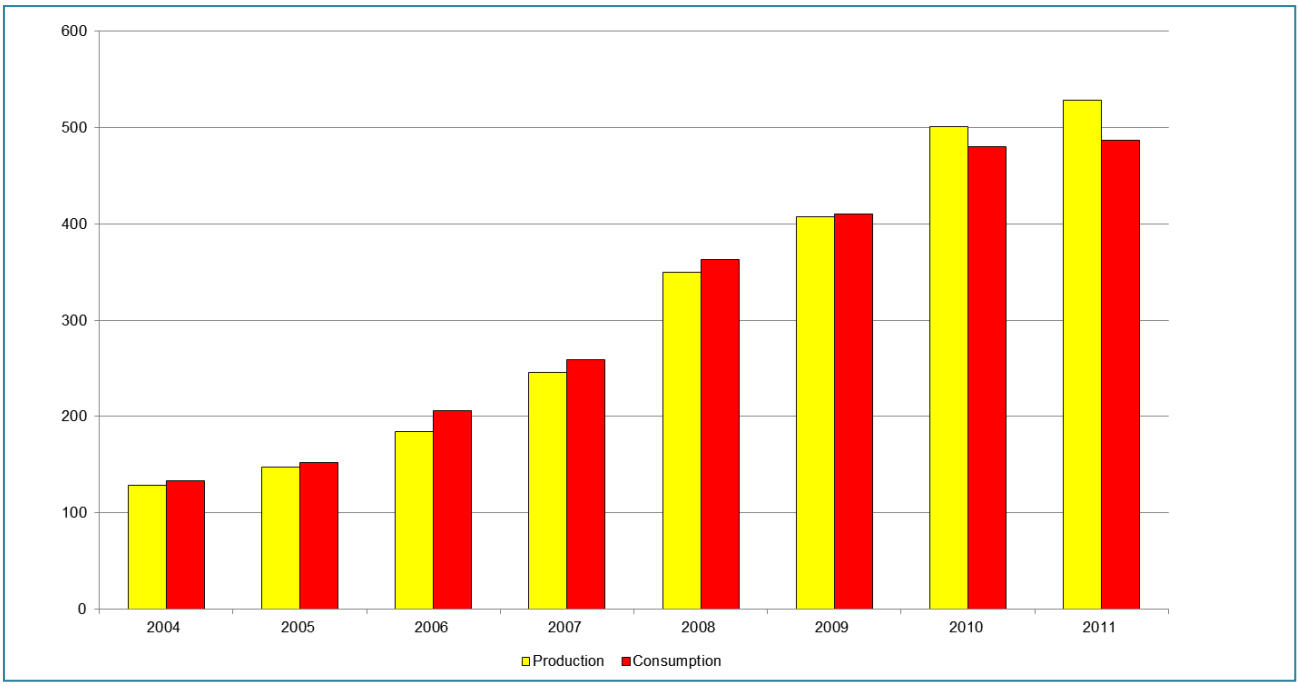
This surplus situation has recently generated a reaction from the US Department for Agriculture (USDA), which has **directly intervened in the US sugar market for the first time in last 13 years. USDA has withdrawn** 272.160 tonnes of sugar form the market and made it available for refiners who will buy it in exchange for credits under the refined sugar export program. The operation will cost around US$ 38 million and is deemed necessary to avoid default on the re-payments of manufacturers' loans. With this **swap operation,** the USDA artificially made internal sugar more attractive to the refiners if compared to external sources; internal prices will increase and the already saturated world market will have to deal with increasing quantity of sugar.

Conclusion: **the North American area is facing a structural sugar surplus, driven by the increasing production both in the US and Mexico necessitating the intervention of the USDA**. An opening up of the EU market would inevitably expose the EU sugar sector to the effect of highly questionable swap practices from the US. The recent USDA intervention is a good example of the response to the pressure that the surplus is putting on US prices and the growing necessity of political intervention to put in place measures to ease this pressure on internal prices. In this context, the **strict respect of EU rules of origin remains also crucial**: refining should in no case confer the origin, cumulation should be kept to a minimum and the percentage of non-originating sugar in high sugar content products should be strict and reflect EU rules of origin structure.

2 – US ethanol production, policy and exports to the European Union

The **United States is the largest producer and consumer of ethanol in the world**. Corn ethanol has been produced in the US for more than 30 years. US distilleries generate nearly half of all ethanol produced around the globe or 580 million hectolitres in 2011 (against 43 million hectolitres in the EU in 2011).

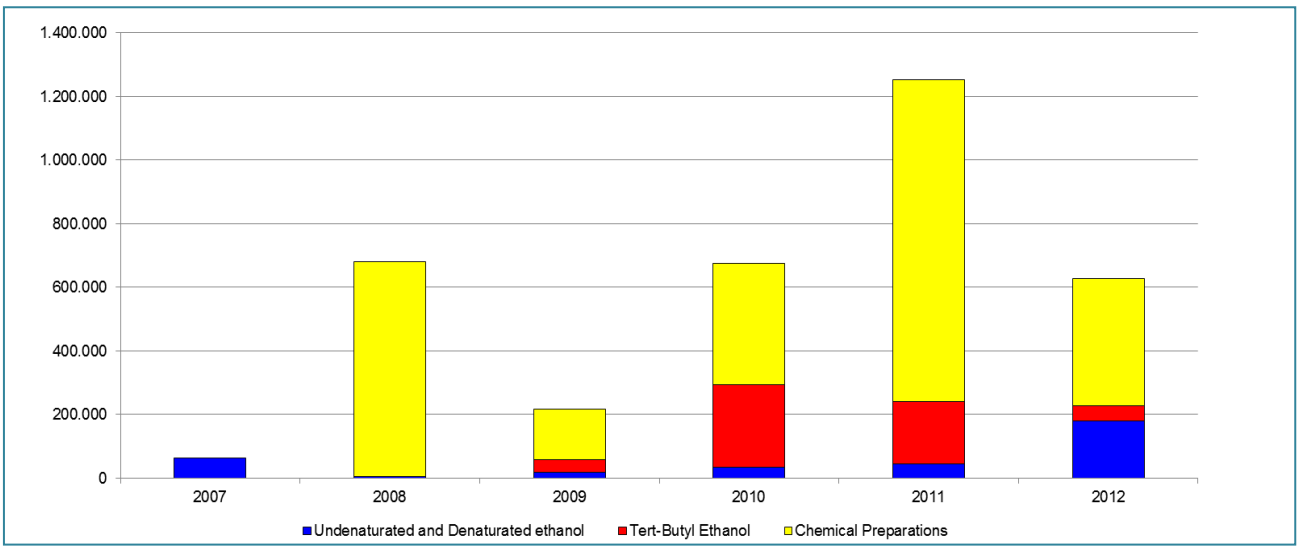
Graph 5: US Fuel Ethanol production and consumption – period 2004-2011 – Millions of hectoliters



Source: ISO Ethanol Yearbook

The **US ethanol export availability has constantly increased in the past ten years**. The US is currently the world's largest ethanol exporter. The production/consumption ratio has passed from 0.96 in 2004 to 1.08 in 2012.

Graph 6: US ethanol exports to the EU – period 2007-2012 – Millions of hectoliters



Source: Eurostat

US exports to the EU are already significant and represent the majority of total EU ethanol imports. The European Commission, in its annual ethanol balance, communicated a level of total imports

to the EU of 15.720.406 hectolitres[1] in 2011; imports from the US represent 10.550.806 hectolitres, i.e. 67% of the EU's total ethanol imports. At such level the sustainability of the EU industry was put at risk. Graph 6 represents the evolution of ethanol exports from the US to the EU in the period 2007 to 2012.

In December 2012, **the EU Commission proposed the necessary measures by adopting antidumping duty on bioethanol, ratified by the Council in late January 2013**[2]. As a result, ethanol imports from the US dropped by 45%, reaching just above 5 million hectolitres.

US Ethanol Policy

The **Renewable Fuels Standard** (RFS2), created by the 2007 Energy Independence and Security Act (EISA), regulates the domestic consumption of biofuels. It requires adding continually increasing volumes of renewable sources (corn ethanol, advanced biofuels, cellulosic-ethanol) into the country's fuel supply – growing from nearly 490 million hectolitres (13 billion gallons) in 2011 up to 1 360 million hectolitres (36 billion gallons) by 2022.

In May 2011, the **Open Fuel Standard Act (OFS)** was introduced to Congress with bipartisan support. The bill required that **50 % of automobiles made in 2014, 80 % in 2016, and 95 % in 2017**, be manufactured and warranted to operate on non-petroleum-based fuels, which included existing technologies such as flex-fuel, natural gas, hydrogen, biodiesel, plug-in electric and fuel cell. Considering the rapid adoption of flexible-fuel vehicles in Brazil and the fact that the cost of making flex-fuel vehicles was approximately $100 per car, the bill's primary objective was to promote **a massive adoption of flex-fuel vehicles capable of running on ethanol or methanol fuel in the US**.

From the 1980s until 2011, domestic ethanol producers were protected by a **54-cent per gallon import tariff**, mainly intended to curb Brazilian sugarcane ethanol imports.
Beginning in 2004, blenders of transportation fuel received a tax credit for each gallon of ethanol they mix with gasoline. Historically, the tariff was intended to offset the federal tax credit that applied to ethanol regardless of country of origin.
Indeed, up to 2011, blenders received a 45 cent per gallon **tax credit**, regardless of feedstock; small producers received an additional US$0.10 on the first 15 million US gallons; and producers of cellulosic ethanol received credits up to US$1.01 per gallon. Tax credits to promote the production and consumption of biofuels date to the 1970s. These credits were based on the Energy Policy Act of 2005, the Food, Conservation, and Energy Act of 2008, and the Energy Improvement and Extension Act of 2008.

As the agency implemented RFS2 and as the targets of the RFS2 were not achieved mainly because of the non-availability of cellulosic-ethanol, the EPA (Environmental Protection Agency) determined that **sugar cane ethanol cuts carbon dioxide emissions by more than 60 %** and designated it an **Advanced Renewable Fuel**. This designation puts sugarcane ethanol (imported from Brazil) in an **important category of superior biofuels that will make up 79.5 billion litres (21 billion gallons) of the fuel supply in the United States by 2022** – an amount equal to about 15 percent of today's gasoline market. Sugar cane ethanol is the only fuel currently produced at commercial scale available to fulfil the advanced non-cellulosic volume of the RFS2.
It is to be noted that the EU imposes higher standards and does not consider sugar beet ethanol or sugar cane ethanol as "advanced biofuels" although the EU also considers that both cut GHG emissions by

[1] For **ethanol** flows the following CN codes have been considered:

- 2209.19.10: Tert-butyl ethyl alcohol
- 2207.10.00: Undenaturated ethyl alcohol of actual strength higher than 80%
- 2207.20.00: Denaturated ethyl alcohol and other spirits of any strength
- 2208.90.91: Vinegar and substitute from acetic acid in container smaller or equal to 2 liters
- 2208.90.99: : Vinegar and substitute from acetic acid in container bigger than2 liters
- 3824.90.97: Chemical products and preparations from the chemical industries including those containing mixtures of natural products.

[2] Legal text of the Council decision: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:049:0010:0028:EN:PDF

more than 60%[3]. When discussing compatibility/convergence of regulations and standards between the US and the EU it would be unacceptable that sugar cane ethanol mainly imported from Brazil by the US would be considered as advanced biofuel by the EU; this would represent a major risk for the EU bioethanol sector.
Moreover, the probable introduction by the EU of stricter sustainable criteria for biofuels production from crops (see current negotiations on the Renewable Energy Directive – RED - and on the Fuel Quality Directive – FQD) will further increase the gap between the two US and EU approaches. The US administration has already informed the EU Commission that it considers the future sustainability criteria of the RED as non-tariff barriers which should not apply to US corn ethanol: this approach is not acceptable and must be strongly opposed by the EU negotiators. **The EU must remain extremely vigilant so as not to double penalize the EU bioethanol sector by imposing stringent standards in the EU and less stringent standards for US ethanol imports.**

The respect of the RFS2 remains an issue; however, it is likely that it will remain unchanged. In 2013, in addition to the previously mentioned provisions, US and Mexican officials have been discussing the possibility of dealing with the structural surplus of the US-Mexico Sugar market (see Graph 4) by **selling Mexican sugar to the US ethanol producers who in turn will re-export the ethanol back to Mexico**. This operation is yet another way to maintain the objective of RFS2 (and to keep internal sugar prices high in the US by managing sugar imports from Mexico).

Conclusion: **The US is the world's biggest ethanol producer and ranks amongst the top exporters, in a situation of high support from the government**. The US sugar policy also establishes interconnections between sugar market and ethanol market in the US. The US government has the possibility of activating a safety net when the sugar prices are under pressure by buying sugar from beet and cane processors and making it available for ethanol producers in exchange for exports rights, leading to subsidized exports. Moreover, the mandatory blend with gasoline guarantees an increasing internal demand in the US for ethanol that sustains price levels. Finally, the EU Institutions are currently discussing reduced targets and higher sustainable criteria for bioethanol in the EU with the risk of distortion of competition between EU bioethanol and US bioethanol. **In this context, the EU cannot accept to further open its market to US ethanol**. The EU bioethanol sector operates in extremely different conditions, and is still involved in heavy investments to increase capacity and efficiency. The opening up of the ethanol market will certainly lead to an increase of the already high imports from the US. This will reduce the market share for the EU industry, jeopardize its investments and put its sustainability at risk.

[3] Advanced biofuels in the EU RED are produced from other sources than crops, such as seaweed or certain types of waste.