

April 16th, 2018

Background paper on the possible action to undertake related to the merger between Suzano and Fibria

The announcement in February of the more likely than ever merger between Suzano and Fibria has provoked a real concern among several European paper companies. These companies were indeed wondering if this new giant would not be in a situation of abusing of its leading position on the market of Eucalyptus market pulp. This type of situation would indeed result in a situation where the competition between the sellers would be biased, and where the prices would be consequently more easily controlled.

Some of these companies, either directly or via their National Association, contacted the UTIPULP Secretariat and asked if something could be done. Following this alert, the UTIPULP Secretariat contacted CEPI in order to identify the possible means of action.

From these exchanges, it appeared firstly that it's very unlikely that any type of action is done at CEPI level, as this association is representing a wide variety of companies, being either pulp buyers or pulp sellers. Nonetheless, based on CEPI's expertise, four possible routes can be envisaged:

- 1- EU DG Competition: a meeting could be organised so that the concerns are expressed and the possible actions – if any – identified. Probably DG Competition could not do much.
- 2- Brazilian legal court: once a legal analysis has been carried out and if it provides supporting elements, contact the Brazilian court and raise the issue with the help of a law firm with good expertise of the Brazilian law and context.
- 3- EU-Mercosur FTA negotiation: push to have some elements put on the table. CEPI has already mentioned our concerns to DG Trade on this specific issue. It would be good to forward more robust analysis to them. The question is whether this can still be addressed in the context of the negotiations. If not, we can expect a dispute settlement body and procedure to be set-up which could maybe be activated in the future. But speculating about a possible FTA deal between EU and Mercosur is a very risky exercise.
- 4- EU Trade defence instruments: this issue could maybe be raised in the context of a future anti-dumping investigation. The new anti-dumping calculation methodology will most probably allow the consideration of such raw material market distortions.

UTIPULP

Group of European Market Wood Pulp users

On March 23, during a phone conference, the UTIPULP Executive Committee discussed the situation and concluded that:

- Option 1 is the only one to be considered. Other options are much more problematic to implement and/or with potential impact (if any) only on the medium/long term;
- Alerting the European Commission could be done by companies on an individual basis or jointly by several companies.
- In the case of a pool of companies, willing to alert the Commission, the role of UTIPULP will have to be defined by the General Assembly scheduled on April 20.
- his role could be either (i) to leave the companies act by themselves (ii) to provide « behind the scene » Secretariat (no visibility for UTIPULP) (iii) to be visible and contact formally the European Commission (letter sent by UTIPULP, request for a meeting between company representatives and Commission officials....).

General Assembly Delegates will be asked to give their views on the above proposals of the EXCOM.
