


## Brazil sugar: Mills considered safe against AGU effort to overturn IAA precatorio ruling

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The Brazilian Attorney General's Office (AGU) is unlikely to succeed in its efforts to set aside the final ruling in cases involving the government's payment of the so-called IAA precatorios to sugar and ethanol producers, two lawyers and a financial advisor said.

Several mills and Copersucar, the sugar and ethanol cooperative system, filed lawsuits against the federal government, due to losses caused by sugar price controls in the 1990s, as reported.

The AGU has been trying to overturn the Brazilian Supreme Court's verdict, by asking for a change in the evidence that the mills would need to present. The [AGU filed new motions last month to set aside the ruling](#), again asking that, instead of calculations based on average costs made by Fundacao Getulio Vargas (FGV), mills must be forced to prove the losses recorded at the time with their own accounting documents.

"What is underway is a clumsy attempt to revive a discussion that prosecutors have already tried more than once," said Andre Passos, partner at Passos Sticca law firm. "The chance of this [AGU's initiative] prevailing is close to zero."

There is not even a legal provision for the AGU's motion to set aside judgment, because it is only applicable in cases of gross error by the courts, Passos said.

Moreover, the two-year period for filing motions to set aside a final ruling has expired, according to Passos and Gabriel Leutewiler, partner at Santos Neto law firm.

In the case of Copersucar, the Brazilian Supreme Court has granted it the right to receive an indemnity amounting to BRL 16.2bn (USD 3.41bn), out of which BRL 5.6bn is related to the first tranche – a value considered "uncontroversial" – and BRL 10.6bn is related to the second tranche – corresponding to the monetary correction of the indemnity – according to the cooperative's records. There is an additional BRL 2.2bn that Copersucar is still appealing in court.

Copersucar has already made three disbursements related to the IAA precatórios, as reported. The cooperative distributed the first installment of the first tranche, of BRL 906m, in March 2019. In December, it distributed BRL 1.06bn related to the second installment of the first tranche, and also BRL 1.725bn of a first installment of the second tranche. Copersucar has retained part of the resources for legal discussions on the incidence of PIS and COFINS taxes.

“There is a payment schedule already settled, so there is no way this is going to be blocked,” the financial advisor said.

In the apportionment of the indemnity among the mills that are part of the cooperative system, **Usina Sao Joao (USJ)** had 5%, equivalent to its stake in Copersucar, **Grupo Virgolino de Oliveira’s (GVO)** Catanduva mill had 3.13%, and **Sao Martinho** had 6.9%, as reported.

USJ [issued domestic bonds](#) in 2017 backed by the proceeds from the lawsuit filed by Copersucar, a transaction that totaled BRL 166.4m, and more recently gave the remaining proceeds to serve as collateral to its [USD 272.78m 10.5% senior secured PIK notes due 2023](#). The distressed producer is in the middle of [new debt restructuring negotiations](#).

GVO offered its IAA precatórios to serve as a first-priority assignment to an export pre-payment facility it has with US investment firm Amerra Capital Management, an outstanding debt of USD 10m, as reported. The producer is now in [negotiations with Farallon Capital and Jive Investments](#) to raise at least USD 50m and repay Amerra – so that the IAA precatórios would serve as guarantee for the potential loan. The deal could also include the repurchase of GVO's bonds. The company had been planning to file for an extrajudicial recovery process before the end of 2019, and the restructuring plan outlined that 87.5% of these credit rights are destined to repay bondholders. Bondholders, in turn, decided to [accelerate their debt](#).

Out of the approximately BRL 700m in IAA precatórios to which GVO is entitled, BRL 100m was deposited to cover the company's labor claims, and BRL 33m was retained by Copersucar to cover a debt owed by the producer, as reported.

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