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# GENERAL AGREEMENT ON TARIFFS AND TRADE

## EUROPEAN COMMUNITIES - REFUNDS ON EXPORTS OF SUGAR

### Article XVI:1 Discussions

#### COMMENTS BY THE REPRESENTATIVE OF AUSTRALIA

The following paper which was circulated by the Australian delegation to the Working Party and is referred to in paragraph 24 of the Report to the Council (L/5113) is circulated to contracting parties at the specific request of the Australian delegation.

The following specific questions put to the EEC at the first meeting of the Working Party on 4 and 5 December 1980 have been put alongside the EEC "response" dated 19 January 1981, in an effort to see which, if any, of the questions have been replied to. The results of this examination show that, of twenty-four specific questions put to the EEC, seventeen appear to be unanswered. It is possible to infer some response to seven questions, and an attempt is made in this paper (Attachment A) to set down how the EEC has responded.

In addition, some comments on other points in the EEC's "response" are set out in Attachment B.

List of Points Made by Members with Respect to which the Working Party could Examine the Possibility of Limiting the Subsidization of Community Exports of Sugar

I. Points relating to determination of the refund

1. Possibility of determining the prices on the world market in accordance with incontestable criteria so as to avoid over-compensation.

EEC Response :

"A second theoretical possibility would depend on determining world prices as precisely as possible, insofar as this is feasible, in order to avoid any danger that the EEC sugar may be offered at prices below prices ruling on the world market."

Comment :

The EEC refers to this as only a "theoretical" possibility and makes no undertaking to determine world market prices in accordance with incontestable criteria. In any event, subsidisation up to the level of the world market price would not remove the serious prejudice and threat of prejudice.

2. Possibility of co-operation, in particular through regular consultation with regard to price formation on certain markets.

EEC Response :

With regard to the world market price, the EEC - which does not control this price - is prepared to co-operate with the other sugar exporting countries in order to seek ways of making the world market more transparent and making the method of determining offer prices more objective, if possible.

Comment :

Although this might be a welcome development, it would not remove the serious prejudice and threat of prejudice. We cannot accept the assertion that the EEC has no control/influence over the world price. Both GATT Panel reports found that the EEC system has a price depressing effect on the world market price. The setting of the EEC domestic prices for sugar is bound up in negotiations on agricultural prices generally and more often than not involves a compromise package. This leaves aside the question of whether the prices were realistic in the first place. Further increases in domestic sugar prices (there have been no decreases) have not been significantly different to price increases for other commodities.

3. Possibility, during examination of the economic aspects of the proposed exports, of taking account of traditional trade flows.

No response.

4. Possibility of reducing the intervention price for white sugar and for raw sugar (Article 3 of the Commission's draft) in the light of the world market situation.

No response.

5. Possibility of giving some transparency to partial tenders in respect of the refund.

(see comments on question 2.)

6. Possibility of limiting the tonnages awarded, taking account of the world market situation.

EEC Response :

"As for the possibility of limiting the quantities for which an export refund may be granted, the EEC wishes to point out that B quota has been reduced from 35 per cent to 27.5 per cent of A quota since the 1978/79 marketing year";

AND "The EEC is considering not increasing the quotas - or even reducing them slightly for the next few years...."

Comment :

The serious prejudice and threat of prejudice cannot be removed by simply limiting subsidies on B quota sugar. This is evidenced by the fact that the reduction of the B quota from 35% to 27½% took place at a time when the EEC's system was found by the Panel to have its most severe effect. There is no provision, other than Article 47 of the draft Commission proposal, which could encompass a reduction in A and B quotas prior to a review in 1984, regardless of the world market situation. Article 47 is a Commission proposal (only) under which it might be possible for the Community to limit production when I.S.A. quotas are in force, if the EEC accedes to the I.S.A.. However, the EEC may not join the ISA, the ISA could end in 1982 and the Commission's proposal may not be approved and implemented.

7. Possibility of establishing an overall financial ceiling for refunds.

No response.

II. Points relating to determination of exportable quantities

A. Quota A

8. Possibility of reducing this quota before 1986.

EEC Response

"The EEC is considering not increasing the quotas - or even reducing them slightly for the next few years ..."

Comment :

No undertaking is given on this question. In any event a slight decline in quotas would not remove the serious prejudice or threat of prejudice.

9. Possibility of increasing the production levy beyond the maximum of 2.5 per cent of the intervention price, between now and 1986, in the light of the world market situation.

No response.

B. Quota B

10. Possibility of reducing quota B to the minimum provided for in Article 25 of the Commission's draft, depending on the world market situation.

No response.

11. Possibility of reducing this quota before 1 January 1984 (Article 25.5 of the Commission's draft).

See comment on question 8. Proposed level of quotas (A & B) exceeds by 75,000 tonnes the actual quota production (average) in the 3 best years of the current regime.

12. Possibility of an increase in the ceiling for the production levy (37.5 per cent of the intervention price) in the light of the world market situation.

EEC Response :

"The EEC would also draw attention to the decision taken by EEC Council on 27/28 April 1980 according to which all export refunds of sugar produced in the EEC in excess of internal consumption will be covered by levies on producers."

"This principle was put into effect by Regulation (EEC) No. 1592/80 of 24 June 1980 on the application of the system of quotas for sugar for the 1980/81 marketing year."

Comment :

It is noteworthy that the Commission's proposal does not provide for an increase in the 37½% levy, rather it provides for the excess to be financed by the Community Budget, if levy proceeds are insufficient (see also comment under Section IV of Attachment B).

C. Quota C

13. Possibility of extension of the obligatory storage of sugar C (provided for in Article 26) in such a way that sugar C would no longer be exported when the world price fell below a price to be determined.

No response.

D. Point relating to the ISA

14. Early possibility of the Community's initiating negotiations within the ISA regarding the basic export tonnage (BET).

No response.

III. Additional questions asked by the representative of Australia

A. EEC Production levels

1. Is there any assurance that a significant reduction in the quantity of Community production eligible for price and sales guarantees (A + B quotas) is likely to occur in practice ?

(-given proposed redistribution of B quotas according to actual recent performance)

No assurance given.

2. Does the proposed system provide for any direct reduction in total Community production ?

(-that is quite apart from quotas A and B is there any control on C sugar production ?)

No response.

B. Export Refunds

3. Would the proposed system

- (a) reduce the quantity of exports eligible for export refunds ?

- (b) reduce the total quantity of funds which would be available to finance such refunds ?
- (c) reduce the amount of Government-sourced (FEOGA) funds which will be available to finance such refunds ?

No response.

4. Is it true that the proposed system of export refunds (regardless of whether it involves greater producer contributions) is capable of comfortably meeting the costs of refunds at a rate more than 1½ times that which initially caused the prejudice ?

- i.e. around Dollars US 400/ton as against an average of some Dollars US 230/ton in 1978, which caused the prejudice
- and in respect of a greater volume of subsidized exports (some 3.2 million tons) than the quantity that caused the prejudice (in 1978 some 2.7 million tons) ?

No response.

IV. Additional comments made by the representative of Brazil.

The only direct, effective way of eliminating the permanent threat of prejudice to other Contracting Parties would be for the EEC to set A and B quotas at a level compatible with the need to avoid substantial export surpluses whenever the international price falls below the intervention price. Taking into account the needs of sugar-exporting Contracting Parties, the objective should be, at least, to limit EEC exports to a volume corresponding to ACP imports, so that the Communities would cease being a net exporter of sugar as it has been since 1977.

In order to reach such a goal, three intermediary solutions, among others, may be contemplated under GATT whereby the necessary limits would not apply directly to exportable volumes, but to the use of subsidies in terms of Article XVI:1.

- A. The EEC would be entitled annually to export with refunds a pre-established volume of sugar (e.g. equal to ACP imports or a given share of the world market); all additional exports could not benefit from such refunds (in other words, would be treated as C sugar is now treated);
- B. the EEC would be entitled annually to use a maximum pre-established sum to subsidize its exports. This sum should be sufficient to cover exports of sugar corresponding, for instance, to ACP imports with a maximum subsidy calculated taking into account the difference between the intervention price and, say, the upper limit of the ISA price range;
- C. the EEC would be entitled to set a maximum export refund corresponding to a given percentage of the prevailing international price.

The EEC has not responded to these suggestions.

V. Additional questions and comments by the representative of Cuba

- 1. Would the EEC continue the system of subsidies it maintained in its sugar trade, which affected other Contracting Parties, and which has enabled the EEC to increase its volume of production and exports in the world market to the detriment of sugar-exporting developing countries ?

No response.

- 2. Because of its sugar policy, the EEC has so far not acceded to the International Sugar Agreement, thereby acting as a disturbing element with respect to the control mechanisms established in that Agreement. Was the EEC now considering acceding to this Agreement ?

No response.

VI. Additional questions raised by the representative of the United States

- 1. Is the purpose of the proposed EC production levy to shift the burden of financing subsidization to the producer ?

No response.

2. Is it anticipated that the production levy will be increased ?

No response.

3. Is the production levy intended as a control on EC production,  
directly or indirectly ?

No response.

FURTHER COMMENTS ON EEC RESPONSE

Section II

"Quota A is fixed in the light of actual production in the EEC in 1968-72. Production under the A quota varies between 8.6 and 9 million tons, i.e. it remains between 0.5 and 0.9 million tons below the EEC's internal consumption. That therefore leaves only the B quota as a means of influencing the volume of exports with refunds."

Comment :

The statement in the last sentence does not take into account changing levels of consumption, which with a fixed "A" quota, must influence the exportable surplus. In addition 7 of the (then) 9 Member States exported quota sugar (not "C" sugar) to third countries in excess of their respective "B" quota production in each of the previous 5 crop years. France alone exported nearly 3 million tonnes (white value) in excess of "B" quota production in that period. It is obvious that the Working Party needs to address the total maximum quota ("A" and "B") not just "B" quota when considering the Panels' findings. It could also be argued that C sugar, (under the Community's present system virtually all must be exported), should be considered. It seems clear that the averaging of receipts by producers has contributed to making this production profitable - for example C sugar exports in the 1977/78 and 1978/79 campaigns, when world prices were extremely low, totalled over a million tonnes (white value).

Section III

"Imports of ACP sugar by the EEC"

Comment :

We do not seek to debate the preferential arrangements for ACP countries; we have no wish to dispute what is regarded as a valuable and viable arrangement for a number of developing countries. However, it is necessary to point out that virtually all ACP cane sugar is imported by the United Kingdom because of particular circumstances. The U.K. exports only a small quantity of sugar to

other EEC countries or to third markets : ACP imports do not displace U.K. production. It is other EEC countries which benefit from being able to produce, within maximum quota, the equivalent of ACP imports.

The EEC's response contends that the Community budget should be responsible for the cost of exporting the ACP equivalent although member states other than the principal importer benefit. We accept that this might happen but do not consider that this is relevant to the complaint.

#### Section IV

"As for the possibility of limiting the quantities for which an export refund may be granted, the EEC wishes to point out that B quota has been reduced from 35 per cent to 27.5 per cent of A quota since the 1978/79 marketing year."

##### Comment :

See also comment under Section II above. What the EEC has failed to mention is that actual B quota production in the 1978/79 season increased to a record level of 1.0 million tonnes (white value). This adds strength to our point that the proposal to "reduce" but redistribute "B" quota in a new regime could eventually lead to an increase in actual "B" quota production.

"The EEC would also draw attention to the decision taken by EEC Council on 27/28 April 1980 according to which all exports refunds of sugar produced in the EEC in excess of internal consumption will be covered by levies on producers."

##### Comment : (see also para. 12 of Attachment "A")

We note that this "in principle" decision was to have applied in the 1980/81 crop year but has yet to be implemented in a new regime. It is also interesting to note that the EEC has not yet implemented the rules on how producers would be responsible for

the full cost if the production levy had been insufficient in 1980/81. In any event, however, it is irrelevant to the Working Party's deliberations, which are concerned with hearing just how the EEC intends changing its open-ended system of export restitutions in order to remove the prejudice or threat of prejudice which that system has been shown to cause. However, as a matter of interest, the question might reasonably be asked : is it intended to increase the guaranteed price in order to offset a basic production levy ? If the answer is no, will the EEC indicate how any regime will be transparently structured so that this can be avoided" (cf. the situation as regards the milk co-responsibility levy).

"It should be pointed out that in the 1979/80 marketing year the total amount of the production levy amply covered the costs arising from refunds on exports of sugar produced in the Community."

Comment :

As already stated, this is irrelevant. Nevertheless, taking up the point, in 1979 the production levy accounted for around 30% of the cost of export subsidies. In 1979/80, according to Australia's calculations, the production levy would have totalled around 220 million e.c.u.; the total cost of export restitutions in that period is estimated (by Australia) at around 320 million e.c.u. That is the production levy covered about 68% of total restitution costs. It may be that the EEC is choosing to ignore the cost of exporting the equivalent of Lomé imports.