GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED
L/5011
7 October 1980
Limited Distribution

EUROPEAN COMMUNITIES - REFUNDS ON EXPORTS OF SUGAR
COMPLAINT BY BRAZIL

Report of the Panel

I. Introduction

1.1 In a communication dated 10 November 1978 and which was circulated to contracting parties in document L/4722, the Government of Brazil requested the CONTRACTING PARTIES to establish a panel to examine a dispute between Brazil and the European Communities over Community export refunds for sugar.

1.2 The Council had a first discussion of the matter at its meeting on 14 November 1978 when Australia, Cuba, India and Peru supported the setting up of a panel (C/M/130, page 7).

1.3 The matter was discussed again at the Thirty-Fourth Session of the CONTRACTING PARTIES, when it was agreed to establish a panel with the following terms of reference:

> "To examine and report on the complaint by Brazil (document L/4722 of 14 November 1978) that the refunds on exports of sugar granted or maintained by the EEC
>
> (i) have resulted in the EEC exporters having more than an equitable share of the world export trade in terms of Article XVI:3;
>
> (ii) cause or threaten serious prejudice to Brazil's interests;
>
> (iii) nullify or impair benefits accruing either directly or indirectly to Brazil under the General Agreement."

The representative of Cuba expressed the hope that all interested contracting parties would have an opportunity to be heard by such a panel, but no delegation declared that it intended to submit representations to the Panel. The CONTRACTING PARTIES authorized the Chairman of the Council to nominate the chairman and the members of the Panel in consultation with the parties concerned (SR.34/1, pages 7 and 8).

1.4 Accordingly, the Chairman informed the Council, at the meeting on 29 January 1979, that the Panel had been established with the following composition:

Chairman: Mr. P. Kaarlehto (Ambassador, Permanent Representative of Finland, Geneva)

Members: Mr. B. Eberhard (Chief of Section, Division fédérale du Commerce, Palais fédéral, Berne)

Mr. I. Parman (Counsellor, Permanent Mission of Turkey, Geneva)

(C/M/132, pages 9 and 10).

1.5 However, as Mr. Parman was unable to participate in the work of the Panel until the completion of its work, he was replaced by:

Mr. Ki-Choo Lee (Counsellor, Office of the Permanent Observer of the Republic of Korea to the United Nations in Geneva)

(C/M/135, pages 18 and 19).

II. Main arguments

(a) General

2.1 In presenting its complaint to the Council of Representatives, the delegate of Brazil claimed that the sharp increase in Community sugar exports had been made possible by the use of substantial subsidies which in recent years had consistently exceeded the international prices of sugar. The subsidies thus granted had allowed the European Communities to obtain a more than equitable share of the world sugar trade, to the detriment of Brazil and all other contracting parties which were exporters of sugar. The European Communities had thereby caused serious prejudice to the interests of such contracting parties and hampered efforts being made to stabilize the world market by means of the International Sugar Agreement, 1977.

2.2 The representative of Brazil focussed his argumentation on the following points, namely that the application of the Community system of refunds on exports of sugar had resulted in:

(a) the European Communities having more than an equitable share of world export trade in sugar, in terms of Article XVI:3;

(b) that serious prejudice, and threat thereof, had been caused directly or indirectly to Brazilian interests in terms of Article XVI:1, through market displacement, reduced sales opportunities and diminished export earnings; and

(c) that as a result of the failure of the European Communities to carry out its obligations under the General Agreement, benefits accruing to Brazil, directly or indirectly, under the General Agreement had been impaired, and the objectives of the General Agreement, including Part IV thereof, had been impeded, in terms of Article XXIII.

2.3 During meetings with the Panel, the representative of Brazil expressed the opinion that this Panel should proceed from the general findings and conclusions arrived at by a previous Panel established to examine a similar complaint by the Government of Australia, as contained in the report adopted by the Council on 6 November 1979 (document L/4833) and where it was stated that:

(i) "... the Community system for granting refunds on exports of sugar must be considered as a form of subsidy which was subject to the provisions of Article XVI,..."

(ii) "... the Community regulations of sugar and their operation had not prevented production from continuing to increase, and neither exportable surpluses of sugar entitled to export refunds nor the amount of refund granted had been reduced or limited."

(iii) "... It was evident that the increase in exports was effected through the use of subsidies."

(iv) "... the Community system for granting refunds on sugar exports and its application had contributed to depress world sugar prices in recent years..."

(v) "... the Community system of export refunds for sugar did not comprise any pre-established effective limitations in respect of either production, price or the amounts of export refunds and constituted a permanent source of uncertainty in world sugar markets. It therefore concluded that the Community system and its application constitutes a threat of prejudice in terms of Article XVI:1."

2.4 In respect of the findings and conclusions put forward in the report concerning Australia's recourse (document L/4833) the representative of the European Communities pointed out that the Panel reached the following conclusions on the main points concerning Australia's complaint:

(a) "the European Communities had notified their system of export refunds on sugar pursuant to Article XVI:1";

(b) "examining the Community share of world export trade in sugar, the Panel noted that that share had increased somewhat in 1976 and 1977, although that increase was not unusual in magnitude. /For 1978/

the Panel felt that the situation justified a thorough examination as to whether the Community system of export refunds for sugar had been applied in a manner which had resulted in the European Communities having more than an equitable share in world export trade in sugar";

(c) "in the light of all the circumstances /related to the present complaint/ and especially taking into account the difficulties in establishing clearly the causal relationships between the increase in Community exports, the development of /Australian/ sugar exports and other developments in the world sugar market, the Panel found that it was not in a position to reach a definite conclusion that the increased share had resulted in the European Communities 'having more than an equitable share of world export trade in that product', in terms of Article XVI:3";

(d) "no detailed submission had been made as to exactly what benefits accruing /to Australia/ under the General Agreement had been nullified or impaired or as to which objective of the General Agreement had been impeded, and the Panel did not consider these questions."

In his view the final, general conclusion which could objectively be drawn from that Panel's report (L/4833) was that the European Communities had not infringed the provisions of the General Agreement in any way.

2.5 The Panel heard the specific arguments of the parties with respect to the various points of the complaint as listed in paragraph 1.3 above. A summary of the arguments presented by the parties on each of these points is given below. (Paragraphs 2.6 to 2.28.)

(b) "The application of the Community system of refunds on exports of sugar had resulted in the European Communities having more than an equitable share of world trade in sugar, in terms of Article XVI:3".

(i) Market shares

2.6 The representative of Brazil argued that the European Communities, through the unrestrained use of massive subsidies, had turned from a net importer into a sizeable net exporter of sugar by displacing more efficient producers, mostly less developed countries, at a time of world over-production; and that the Community share in the world export trade in sugar had risen from an average of 7.5 per cent in 1972-74 to 9.6 per cent in 1977, 14.4 per cent in 1978 and was expected to be around 14 per cent for 1979.

2.7 Corresponding figures for Brazil were 12, 8.8, 7.8 and 8 per cent, respectively, and the representative of Brazil argued that a comparison of quantities exported and individual shares of the world export market for major sugar exporting countries demonstrated that the European Communities was practically the only leading sugar exporter who had made significant gains

both in terms of absolute increases and in terms of market shares. Although other countries, such as Cuba and Thailand had indeed improved their positions in the world market in recent years, this could not be considered as being directly prejudicial to the interests of Brazil in terms of market displacement or reduced sales opportunities (Annex Tables IX and X).

2.8 He furthermore argued that between the two periods, 1973-75 and 1976-78, a complete reversal in the relative positions of Brazil and the European Communities had taken place as regards total exports to the world market (Table 1). With respect to particular groups of markets, Community exporters had absorbed all import growth registered in their traditional markets (Group A) and 54 per cent of import growth in the most dynamic sector of the world market for sugar (Group B). The decline in Brazilian exports to other markets was partly due to diminished exports to the European Communities, and he drew the attention of the Panel to the fact that the European Communities had changed from a substantial net importer to a substantial net exporter during the period under consideration.

TABLE 1

BRAZIL AND THE EUROPEAN COMMUNITIES (EC)

Average Sugar Exports 1973-75 and 1976-78
Groups of Countries of Destination

(Thousand tons, raw value and percentages)

	1973-75				1976-78				Change	
	Brazil		EC		Brazil		EC			
	'000 tons	%	'000 tons	%	'000 tons	%	'000 tons	%	Brazil	EC
Total	2,336	100	1,244	100	1,888	100	2,711	100	-448	+1,467
of which to:										
Group A[a/]	729	31	1,138	92	577	31	1,535	57	-152	+397
Group B[b/]	1,090	47	52	4	1,007	53	1,055	39	-83	+1,003
Other	517	22	54	4	304	16	121	4	-213	+67

a/ Group A: Countries which on average imported from the European Communities more than 10,000 tons, raw value, in the period 1973-1975.

b/ Group B: Countries which on average imported from the European Communities less than 10,000 tons, raw value, in the period 1973-1975, but on average exceeded that amount in the period 1976-1978.

Source: The representative of Brazil.

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2.9 The representative of the European Communities argued that the trend in Community sugar exports was consistent with Article XVI, as there had been no substantial variations in the Community share of world export trade, 8.8 per cent in 1972 and 9.6 per cent in 1977. Even taking into consideration developments in the year 1978 it did not seem to affect this argument. He furthermore argued that a general conclusion which could be drawn from the report of the Panel examining a similar complaint by Australia (L/4833) was that the European Communities had not infringed the provisions of the General Agreement in any way. He also stated that the arguments presented by Brazil, related to a change in the Community position from a net importer to a net exporter were irrelevant as the appropriate chapters of the General Agreement contained no reference to this concept.

2.10 The representative of the European Communities had no major objections to following Brazilian suggestions concerning the grouping of countries (A,B and others) but said that figures for 1972 should also be taken into account in any calculation. He proposed that the two reference averages be those for 1972-74 and 1975-77 (Table 2). The year 1978 would be considered separately.

TABLE 2

EUROPEAN COMMUNITIES

Average Sugar Exports 1972-74 and 1975-77
by Groups of Countries of Destination

(Thousand tons, raw value and percentages)

	1972-74		1975-77	
	tons	%	tons	%
Total:	1,655	100	1,757	100
Group A	1,462	88	1,141	65
Group B	103	6	533	30
Other	90	6	83	5

Source: The Commission of the European Communities.

2.11 With respect to the comparison of market shares for a number of exporting countries presented by the Brazilian representative, the representative of the European Communities argued that it was not possible to come to any serious appreciation without a detailed examination by the Panel of all the international sugar trade, case by case for all exporting countries.

(ii) Displacement

2.12 The representative of Brazil argued that, taking 1972-1974 as a reference period, the market displacement suffered by Brazil in the years 1976-1978 as a result of the Community sugar subsidy system amounted to 3,402 thousand tons - a volume of sugar that Brazil would have been able to export given the accumulation of stocks and the substantial diversion of cane to the production of alcohol which took place during this period. In all countries importing Community sugar, Brazilian sugar exports had been directly affected and Brazilian exports had furthermore been indirectly affected in other markets due to increased competition from exports having been displaced elsewhere by Community exports.

2.13 The representative of Brazil presented to the Panel detailed statistical information on imports of sugar into selected countries for the years 1972 to 1979. Imports from Brazil into Algeria, Iraq, Israel, Kuwait, Lebanon, Nigeria, Spain, Sudan, Syria and Tunisia had declined from an annual average in 1972-75 of 193,900 tons to 78,700 tons on average for the years 1976-78, and Brazil's share of these markets had fallen from 17.2 to 5.7 per cent over the same period. Community exports had, however, expanded from an annual average of 270,400 tons in 1972-75 to 798,900 tons in 1976-78, and the European Communities had increased its share of these markets from 24.8 to 56.4 per cent. For another group of selected countries (Chile, China, Egypt, Iran, Jordan, Morocco, Portugal, Sri Lanka and the USSR) average annual imports from Brazil which in 1972-75 had totalled 729,400 tons had in 1976-78 fallen to 549,100 tons, while imports from the European Communities at the same time had expanded from an average of 35,600 tons in 1972-75 to 725,800 tons in 1976-78. Brazil's share of these markets had fallen from 16.7 per cent to 7 per cent while that of the European Communities had risen from 0.8 to 9.4 per cent.

2.14 He furthermore argued that in seventeen of these markets Community exports of white sugar had directly displaced Brazilian supplies of both white and raw sugar, and that in other markets, Brazilian exports had suffered from increased competition from raw sugar of other origin but which had been displaced elsewhere by increased Community exports of white sugar. One result of these developments was that the number of outlets for Brazilian sugar was strongly reduced. In 1972-75, Brazilian sugar had been exported to fifty-two destinations (of which white sugar went to thirty-four). In 1977, the number of outlets had fallen to thirty and in 1979 to twenty, with Brazilian white sugar being sold in only fourteen markets.

2.15 The representative of the European Communities considered that it was inadmissible that country A (Brazil) could claim an exclusive right over country B (EEC) to export a specific product (sugar) to any importing country. There is no provision in the General Agreement upholding such a right. Consequently the calculations put forward by Brazil concerning direct or indirect losses of markets caused by exports from the European Communities appear to be unfounded. The representative of European Communities argued that between 1972 and 1977 on its principal export markets, Brazil had maintained or increased its sugar exports, while on those same markets, Community exports remained negligible or showed only insignificant changes (Annex Table IX). Furthermore he argued that there was no possible relationship between the decline in the Brazilian share and the slight increase in the Community share over the same period. In 1978 Brazilian exports declined in relation to average exports to the Group A countries in 1975-1977; almost the entire decrease in Brazilian exports in 1978 in relation to the 1975-1977 average is accounted for by two countries, Algeria and Iraq. It is interesting to note that between 1975-1977 and 1978, the Community's relatively insignificant exports to these two countries also fell.

2.16 With respect to the evolution in exports to markets in strong expansion (Group B), the Community representative argued that although Community exports to this Group of countries as a whole increased from 1972-1974 to 1975-1977, while Brazilian exports to the same group of markets at the same time declined, there was no connexion between the two different developments. The conclusion would be the same both for the group of countries as a whole and for each individual country in the group. The degree to which Brazilian sugar exports dropped could not be attributed to increased Community exports because of the substantial difference in quantities involved. For 1978, Brazilian exports to the same group of countries were higher than in 1975-1977. There was therefore no reason for Brazil to complain about a loss of markets due to increased Community exports since there was no evidence to support such a claim.

2.17 Commenting upon the detailed statistics for selected markets presented by the Brazilian representative, the representative of the European Communities argued that there was no clear evidence that Community exports had displaced Brazilian supplies of sugar on the majority of these markets. Developments for instance in the markets of Algeria, Iraq, Sudan and Syria had been influenced by competition from sugar of other origin. In other cases, Brazil had always been an only marginal or occasional supplier. Developments in the Tunisian and other markets ought to be seen in connexion with existing special commercial relations between the European Communities and these countries. Still in other cases (e.g. Chile, Cyprus, Iran, Morocco, United States, USSR and Sri Lanka) there was no evidence of any possible relation between Brazilian sales and Community exports. It was therefore not possible to establish a link between developments in Brazilian and Community sugar exports.

(iii) Reduced sales opportunities

2.18 The representative of Brazil argued that its exports of sugar had suffered the loss of sales opportunities in a number of markets in which the demand for sugar had shown a rapid expansion. Several importing countries (e.g. Iran, Kuwait and Nigeria) had declined to enter into long-term contracts with Brazil concerning supplies of sugar, in view of readily available supplies of white sugar offered by the European Communities. Community sugar exports at depressed prices also resulted in reduced sales opportunities for Brazilian exports in other countries (e.g. China, Jordan and the USSR).

2.19 He furthermore argued that the penetration of Community white sugar into the markets in Chile and Venezuela in the years 1977 to 1979 had resulted in market displacement and reduced sales opportunities for Brazil, thus adversely affecting the special commercial ties Brazil enjoyed with these two LAFTA countries. In his opinion the fact that import limitations imposed by Venezuela in 1979 according to its obligations under the International Sugar Agreement, 1977, resulted in only negligible imports from the European Communities and a strong increase in imports from Brazil was evidence of unfair competition from Community exporters in the Venezuelan market in the years prior to 1979.

2.20 The representative of the European Communities argued that EEC was one of Nigeria's traditional suppliers and there were no possible grounds to suppose that Brazilian exports were replaced at any time. As to Iran, he argued that it did not seem necessary for EEC to put forward any special arguments, since Brazil clearly stated that its efforts to conclude a long-term contract with Iran failed owing to the existence of trade links between Iran and the EEC. Concerning China, Jordan and the USSR, the representative of the European Communities stated that the Brazilian complaint appeared completely arbitrary and he referred to statistics.

2.21 In the case of Chile and Venezuela, the representative of the European Communities argued that trade statistics did not show that Community sugar exports had adversely affected Brazilian sales in these markets in recent years. He wished to draw the attention of the Panel to inconsistencies in the lines of reasoning of the representative of Brazil on this point.

(c) "The application of the Community system of refunds on exports of sugar had resulted in that serious prejudice, and threat thereof, had been caused directly and indirectly to Brazilian interests in terms of Article XVI:1, through market displacement, reduced sales opportunities and diminished export earnings"[1]

(i) Diminished export earnings

2.22 The representative of Brazil argued that, taking 1972-1974 as a reference period, the losses in export revenues resulting from market displacement and reduced sales opportunities amounted to US$707 million in the years 1976-1978,

[1] With respect to quantitative aspects related to "displacement" and "reduced sales opportunities", see under (b) above.

at the prices then prevailing. However, taking into account the dominant position of the European Communities as a world supplier of white sugar, the substantial volume of the Community export surpluses, the knowledge on the part of the trade that the amounts available to cover Community export refunds were not subject to prior limitations, the the refusal of the European Communities to accept any form of discipline under the International Sugar Agreement of 1977, he assessed the depressing effect caused by the Community's sugar export practices on world prices to have represented, on average, $0.01-2 per pound over the three-year period 1976-1978. This meant a reduction in export earnings to Brazil of US$125-250 million on the volume of sugar actually sold abroad and a loss through market displacement of US$782 to 856 million. Consequently, he estimated the total prejudice suffered by Brazil, either directly or indirectly, as a result of the Community sugar subsidy system in the period 1976-1978 to have amounted to between US$907 and US$1,106 million. For comparison, he mentioned that total Brazilian export earnings of sugar amounted to US$1,095 million for this three-year period.

2.23 The representative of the European Communities argued that the level of the world price for sugar was affected by certain factors whose number, nature or possible impact were difficult to circumscribe. All participants in world trade had a joint responsibility and the European Communities could not accept the idea that it had a special responsibility of its own for world market price formation. He felt that the calculations of loss of earnings and financial prejudice presented by the representative of Brazil appeared to be unfounded or even irrelevant. Even to replace 1972 by 1971 as a reference year would suffice to change the result of the calculations. Apart from the fact that there is nothing to prove that the reduction in Brazil's share was attributable to other countries such as the EEC, for example.

(d) "... as a result of the failure of the European Community to carry out its obligations under the General Agreement, benefits accruing to Brazil, directly or indirectly, under the General Agreement had been impaired, and the objectives of the General Agreement, including Part IV thereof, had been impeded, in terms of Article XXIII"

2.24 The representative of Brazil argued that the application of the Community system of export subsidies for sugar was inconsistent with Article XVI:3 of the General Agreement. Constituting a form of export subsidy on primary products, the system as applied had not led to any reduction or limitation of exportable surpluses of the amount of export refunds. The increase in Community exports from 1977 onwards had resulted in the European Communities having more than an equitable share of world export trade in sugar.

2.25 He furthermore argued that the Community system for granting refunds on exports of sugar and its application were inconsistent with commitments under Part IV of the General Agreement. The increased Community sugar exports

effected through the use of subsidies, had severely depressed world market prices, and had displaced Brazilian exports and led to reduced sales opportunities and to reduced export earnings for Brazil, contrary to the provisions of Article XXXVI:2. By enlarging its market share, the European Communities had failed to make positive efforts as indicated in Article XXXVI:3, thus impeding that Brazil could be secured a share of the growth in international sugar trade compatible with its needs of economic developments. By refusing to participate in the International Sugar Agreement, 1977, and restricting its exports accordingly, the European Communities had seriously jeopardized the attainment of the objectives of that Agreement, contrary to the provisions of Article XXXVI:4. Furthermore, concerning sugar, the European Communities had not acted in a manner as to give effect to the implementation of the relevant principles and objectives contained in Article XXXVI, as stipulated in Article XXXVI:9. Finally, the Brazilian representative argued that by maintaining its sugar subsidy system, resulting in increased exports and reduced imports, and by refusing to participate in the International Sugar Agreement, 1977, the European Communities had disregarded the undertakings set forth in Article XXXVIII:2(a) and (e).

2.26 Referring to document L/4833 ("European Communities - Refunds on Exports of Sugar - Complaint by Australia - Report of the Panel"), the representative of the European Communities argued that there was no reference to any infringement by the European Communities of the provisions of Article XVI:3.

2.27 With respect to the opinion expressed by the representative of Brazil that the Community system of export refunds for sugar was inconsistent with Part IV and in particular Article XXXVI:2, 3, 4 and 9 and Article XXXVIII:1, 2, 2(a) and 2(e), the Community representative recalled the very considerable Community efforts made in favour of developing countries. These efforts comprised an innovative aid policy which through the STABEX system guaranteed export receipts for a number of least developed countries. In the field of primary commodities, the European Communities had always pursued an active and constructive policy towards the setting up of international agreements. With regard to Community participation in the International Sugar Agreement, 1977, there was no use in recalling the reasons for the present state of affairs.

2.28 He furthermore argued that the provisions of Article XXXVI constituted principles and objectives and could not be understood to establish precise, specific obligations. It was therefore not possible by definition to ascertain that these principles had been infringed through the application of any specific measure. He also argued that it was not possible to imagine that the Community system of export refunds for sugar could have objectives contrary to those of Article XXXVI. Given the legal analogy between the provisions of Articles XXXVI and XXXVIII, the comments made in connexion with the former are also valid for the latter.

III. Factual aspects

(a) The sugar market system of the European Communities[1]

3.1 The common organization of the market in sugar was originally established by Regulation (EEC) No. 1009/67 of the Council, of 18 December 1967. The single market in sugar came into force on 1 July 1968. Regulation (EEC) No. 1009/67 remained applicable until the end of the 1974/75 sugar year, when it was replaced by a new basic regulation (Regulation (EEC) No. 3330/74 of the Council of 19 December 1974) applicable to the sugar years 1975/76 to 1979/80.

3.2 The Panel's examination of the Community system was, inter alia, focussed on Regulation (EEC) No. 3330/74 of the Council of 19 December 1974 on the common organization of the market in sugar; as last amended by Regulation (EEC) No. 1396/78 of 20 June 1978; Regulation (EEC) No. 766/68 of the Council of 18 June 1968 laying down general rules for granting export refunds on sugar, as last amended by Regulation (EEC) No. 1489/76; and Regulation (EEC) No. 394/70 of the Commission of 2 March 1970 on detailed rules for granting export refunds on sugar, as last amended by Regulation (EEC) No. 1467/77. A description of some major provisions is given below, which is however not exclusive with respect to the elements taken into consideration by the Panel.

3.3 The common agricultural policy on sugar has two main objectives: to ensure that the necessary guarantees in respect of employment and standards of living in a stable market are maintained for Community growers of sugar beet and sugar cane; and to help guarantee sugar supplies to the entire Community or to one of its regions. In order to achieve those objectives, the common organization of the market in sugar introduces a single system of internal prices and a common trading system at the external frontiers of the Community (Regulation No. 3330/74, preamble).

3.4 Within the Community, the price level is established each year and is linked to a "target price" for white sugar (standard quality, unpacked, ex-factory, etc.) which is determined for the Community area having the largest surplus (Article 2), i.e. for the area in which the price is usually lowest.

3.5 At the operational level, the "intervention price" - lower than the target price (see Article 11) - is the price at which the intervention agencies of the member States are required to buy in sugar offered to them which has been manufactured in the Community (Article 9). This price is

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[1] Annex Tables V to IX graph 1 and Table 3 give further details on Community sugar prices, export refunds, exports, production and consumption.

fixed at the same time as the target price and covers the same period, the same product and the same area. For other areas, however, derived intervention prices are fixed in the light of the regional variations which, given a normal harvest and free movement of sugar, might be expected to occur in the price of sugar under natural conditions of price formation (Article 3). In fact, the earnings of the sugar industry are determined by prices at, or very near to, the intervention price.

3.6 Lastly, by the same procedure, a minimum price is fixed for each producing area, payable by the manufacturer to beet producers at a specified delivery stage and for a specified quality. The minimum price is derived from the intervention price for white sugar in the area in question, i.e. it is adjusted by fixed values identical for the entire Community representing such factors as the processing margin, the yield, and certain additional costs and receipts (Articles 4 and 5). Conditions for purchasing sugar cane are fixed only in the absence of agreements within the trade between producers and manufacturers.

3.7 Different minimum prices are established depending on whether the beet delivered is or is not within the basic quota (Articles 4 and 28). For, since the price system is designed to influence the production of sugar beet and sugar cane (see preamble), there is a system of sugar quotas. A basic sugar quota is allotted to each undertaking within the basic quantities of sugar assigned to each member State or area of the Community (Article 24). This basic quota (quantity A) may be increased by a quantity B, which has a linear annually determined relationship to quantity A; the sum of these two quantities (A and B) constitute the maximum quota in any given marketing year. The determination of this quantity takes into account the trends in production and marketing opportunities (Article 25). Quantity C is the quantity produced in excess of the maximum quota (see Article 26).

3.8 These quotas are of decisive importance for the application of the system of internal prices, since for quantity A (basic quotas), the beet producer receives not less than the minimum beet price and the manufacturer receives not less than the intervention price. For quantity B, the minimum price of the producer is lower and the manufacturer is required to pay the State a production levy (Table 3) which in part is born by the beet grower. This levy is designed to cover or, as the case may be, to limit any costs incurred by the Community in marketing the quantity of quota sugar produced beyond the so-called guaranteed quantity.[1] The production levy may not, however, exceed 30 per cent of the intervention price (Article 27). For

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[1]The guaranteed quantity is equal to human consumption in the Community less the quantity imported on preferential terms (e.g. Lomé) but may in no case be less than quantity A.

quantities of beet exceeding the maximum quota, manufacturers, if not otherwise required by the regulations, determine prices to beet producers in the light of conditions on the world sugar market. Subject to certain conditions, an undertaking may carry forward that part of its production which is outside the basic quota, up to a maximum of 10 per cent of the basic quota, to the following marketing year (Article 31).

3.9 The quotas also have a function in the common trading system, in that the quantity C must be exported (unless there is a shortage within the Community) and does not entitle the exporter to a refund (Articles 19 and 26).

3.10 The trading system with third countries is designed to prevent price fluctuations on the world market from affecting prices ruling within the Community. It does so by a system of import levies and export refunds designed to cover the difference between the prices prevailing outside and inside the Community when transactions - imports or exports - take place with third countries (preamble).

3.11 As regards imports, the system operates on the basis of a "threshold price" for white sugar, raw sugar and molasses fixed each year for the entire Community. It is based on the target price for the Community area having the largest surplus plus charges for transport from that area to the most distant deficit area (Article 13).

3.12 In the case of imports, a levy is charged which is equal to the threshold price less the import price (Article 15). This import price is either a c.i.f. price fixed in advance or, if it is less, the offer price in the case in question (Article 14). Where, on the other hand, the import price (c.i.f. price) is higher than the threshold price and the supply situation so requires, a subsidy for imports may be granted (Article 17).

3.13 Contrariwise, to the extent necessary to enable sugar to be exported, a refund may be granted to cover the difference between the world market price and prices within the Community (Article 19), i.e. in practice, the intervention price plus all the costs and charges involved in transporting the sugar from the factory and putting it in the f.o.b. position ready for export (see for example Article 3 of Regulation (EEC) No. 766/68).

3.14 These refunds are granted only for sugar obtained from beet or cane harvested within the Community or imported under the Lomé Convention, the Cane-Sugar Agreement concluded with India and the preferential arrangements with the Overseas Countries and Territories (Regulation (EEC) No. 766/68).

3.15 Depending on the methods of application, export refunds are granted either under a general procedure, or by way of competitive tender.

3.16 According to the general rules, periodic refunds are to be fixed every two weeks. The fixing takes into account such elements as the situation on the Community and world markets in sugar, in particular the intervention price, transport costs, trade expenses and packing charges, quotations on the world market, and the economic aspect of the proposed exports (Regulation (EEC) No. 766/68, Article 3).

3.17 The amount of the refund may also be fixed by tender. As a matter of fact, most exports of sugar with an export refund are authorized under the tender procedure (Table 3). In that case a maximum amount of the refund is fixed, taking account of the situation within the Community with regard to the supply situation and prices, prices and potential outlets in the world market and costs incurred in exporting sugar. Any application for a refund which exceeds the maximum fixed is to be rejected. For other applications, the amount of the refund will be that appearing in the respective application (Regulation (EEC) No. 766/68, Article 4). The maximum amount determines also, indirectly, the quantity assigned for each tender.

(b) Some features marking the world sugar economy

3.18 World sugar production reached 92 million tons in 1977 and 1978, and had been steadily increasing from its level of less than 70 million tons in 1969. Total world consumption of sugar also increased from 68 million tons in 1969 to almost 90 million tons in 1979. During the period 1969 to 1979 world trade in sugar varied between 18.5 million tons in 1969 and 28 million tons in 1977 while total world stocks of sugar on 31 December varied between 28 million tons in 1974 and 46.3 million tons in 1978. Sugar prices have been very sensitive to the balance between supply and demand. While for 1970, the annual average of the ISA Daily Price (raw sugar, f.o.b. and stowed Caribbean port in bulk) was 3.68 US cents per pound, the annual average for 1974 reached almost 30 US cents per pound, and the monthly average for November 1974 was more than 56 US cents per pound.[1]

3.19 During the period between 1971 and 1974, world consumption exceeded world production and in 1974 world sugar stocks fell to the lowest level in many years. During the same period world prices followed a rising pattern, reaching exceptionally high levels in the third quarter of 1974. In 1975, however, there was a reversal of the supply and demand situation, owing to the fact that world production increased while consumption declined by some three million tons. In 1976 and 1977, world sugar production continued to

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[1] Annex Tables I and II show developments in production stocks and trade for Brazil, the European Communities and totals for the world 1969-79. Tables III and IV show developments in world market prices: 1969-79.

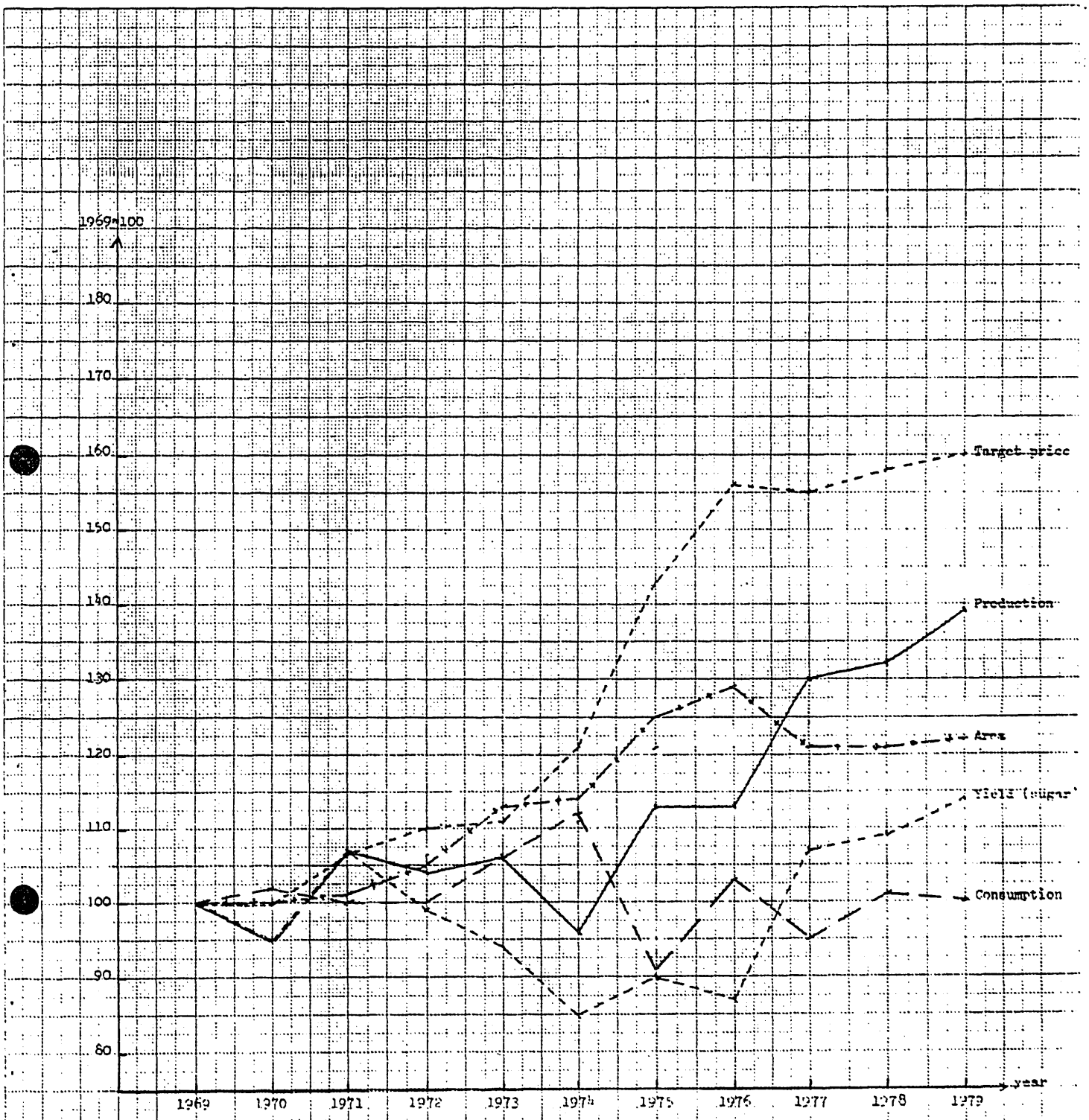
TABLE 3

EUROPEAN COMMUNITIES: SUGAR EXPORTS BY CATEGORY, TOTAL AMOUNTS OF REFUNDS AND PRODUCTION LEVY 1972 TO 1979

Year	Exports - thousand tons (raw value)					Amounts in million u.a.	
	Total	With refund (A and B - sugar)			Without refund (C - sugar)	Total refund	Production levy
		Total	of which				
			Periodic refund	Under tender			
1972	1,920	1,223	16	1,207	697	70	86
1973	1,916	1,634	14	1,620	282	56	39
1974	1,128	551	13	538	577	8	0
Average 1972 to 1974	1,655	1,136	14	1,122	519		
1975	702	645	15	630	57	31	0
1976	1,869	1,802	165	1,637	67	56	0
1977	2,699	2,520	73	2,447	179	363	121
1978	3,566	2,708	2	2,706	858	557 640*	186
1979 prelim.	(3,577)	..	..	(2,430)	..	752*	..

Source: The Commission of the European Communities.

* Figures from "The Agricultural Situation in the Community, 1979 Report", pages 256, 257.



GRAPH 1

EUROPEAN COMMUNITIES

SUGAR BEET AREA, YIELDS, SUGAR PRODUCTION,

CONSUMPTION AND TARGET PRICES

Developments 1969 to 1979. Indices 1969=100

Source: Annex Tables I and VI.

increase at an even faster rate. In 1977, it was 32 per cent higher than in 1969 and 16 per cent higher than in 1974. In 1977, the crop area of beet was 850,000 hectares greater than in 1974. As to consumption, it too had continued to rise in recent years. The rise was slower, however, than that of production and consequently, in 1978, world stocks reached a record level, exceeding the average level of the 1969-1975 period by 40 per cent. In the summer of 1978, world prices fell to their lowest level since 1971. The situation improved somewhat late in 1978, but remained low until the end of 1979, when prices started to increase rapidly. By the end of 1979, world market prices for sugar were about twice their level of one year earlier and corresponded to the price level in 1975/1976. The main reasons for these developments were a decline in total world production of 3.7 per cent from 1978/1979 to 1979/1980 and an expectation of reduced supplies to be offered on the world market by some major exporters.

3.20 The International Sugar Agreement, 1968, entered into force in 1969. Owing to rising prices on the world market, the basic export tonnages stipulated by the Agreement were raised in 1970 and 1971 and suspended in 1972, when, moreover, reserve stocks were released. The Commonwealth Sugar Agreement expired in 1974 and was replaced by a protocol concerning sugar annexed to the Lomé Convention whereby the European Communities undertook to import at guaranteed prices a total of 1.3 million tons of sugar (refined sugar equivalent) from a number of developing countries.

3.21 In 1978, world trade in sugar was at about the same level as in the preceding years with the sole exception of 1977, during which it established an all-time record, with world exports of more than 28 million tons of sugar (raw sugar equivalent). As 1977 was the year which preceded the entry into force of the new International Sugar Agreement, 1977 (ISA), this had a certain influence on the volume of trade. In 1978, the first year of the provisional entry into force of the ISA, the exporting countries which had acceded to it had to limit their exports to their minimum levels, i.e. 81.5 or 85 per cent of the basic export tonnages provided for by the Agreement, owing to the depressed prices on the world market. These minimum levels were maintained throughout 1979, but early in 1980 following the rapid increase in sugar prices, export quotas under the ISA were suspended. The European Communities, for their part, had not acceded to this Agreement.

IV. Findings

(a) Introduction

4.1 The Panel has carried out its considerations of the matter referred to it for examination in the light of its terms of reference as expressed in paragraph 1.3. It has based its considerations on arguments presented to it

by the parties to the dispute (Chapter II) and on various factual information which was available to it, notably that concerning the sugar market system of the European Communities and features of the world sugar market (Chapter III).

4.2 When examining the Community system for granting refunds on exports of sugar, the Panel found that such refunds were granted to enable Community sugar to be exported and that the refunds thus granted were financed out of the European Agriculture Guidance and Guarantee Fund. The Panel considered this Fund to be a government fund of the type mentioned in the Notes and Supplementary Provisions concerning Article XVI:3.[1]

4.3 The Panel therefore found that the Community system for granting refunds on exports of sugar must be considered to be a form of subsidy and which was subject to the provisions of Article XVI. The Panel noted that the parties to the dispute were in agreement with this interpretation.

(b) The complaint

4.4 The Panel understood the complaint of the Government of Brazil to be that the application of the Community system for granting refunds on exports of sugar has resulted in that the European Communities had more than an equitable share of world export trade in sugar, in terms of Article XVI:3, had caused or threatened to cause serious prejudice to Brazilian interests in terms of Article XVI:1 and that the application of the Community system was not in conformity with the guidelines for joint action stipulated in Article XXXVIII to further the principles and objectives of Article XXXVI.

(c) Relevant GATT provisions

4.5 The Panel therefore noted that the relevant GATT provisions concerned were the following:

(i) Article XVI:1, last sentence:

> "In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization." (BISD Volume IV page 26.)

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[1] "Notwithstanding such determination by the CONTRACTING PARTIES, operations under such a system shall be subject to the provisions of paragraph 3 where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned." (BISD Volume IV page 68.)

(ii) Article XVI:3, last sentence:

"If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product. (BISD Volume IV pages 26 and 27.)

(iii) Article XXXVI, paragraphs 2, 3, 4 and 9:

"2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties."

"3. There is a need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development."

"4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development."

"9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly." (BISD, Volume IV, pages 53 and 54.)

(iv) Article XXXVIII:1

"1. The contracting parties shall collaborate jointly, within the framework of the Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI." (BISD, Volume IV page 56.)

(d) "More than equitable share"

(i) General

4.6 The Panel noted that no complete definition of the concept "more than equitable share" had been provided, and neither had it in the past been considered absolutely necessary to have an agreed precise definition of the concept. The Panel felt that it was appropriate and sufficient in this case to try to analyze main reasons for developments in individual market shares, and in light of the circumstances related to the present complaint try to determine any causal relationship between the increase in Community exports of sugar, the developments in Brazilian sugar exports and other developments in the world sugar market, and then draw a conclusion on that basis.

4.7 The Panel furthermore noted Article 10:2(a) and (b) of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, and which has been accepted by the parties to the dispute:

> "2. For purposes of Article XVI:3 of the General Agreement and paragraph 1 above:
>
> (a) 'more than an equitable share of world export trade' shall include any case in which the effect of export subsidy granted by a signatory is to displace the exports of another signatory bearing in mind the developments on world markets;
>
> (b) with regard to new markets traditional patterns of supply of the product concerned to the world market, region or country, in which the new market is situated shall be taken into account in determining 'equitable share of world export trade';"

4.8 The Panel also noted that Brazil had presented its complaint before final data for 1978 were available and that it would even at the conclusion of its work only have preliminary data for 1979 at its disposal. The Panel nevertheless felt that it was appropriate to include not only 1978, but to the extent possible, also 1979 in its considerations, as the Community export system with respect to sugar had remained the same as in previous years and the effects of the application of the system may have been even more significant than previously. Furthermore, the complaint by Brazil also covered threat of serious prejudice. The Panel therefore felt it appropriate to take into consideration any available information about developments in recent periods and that this would be in conformity with earlier practice.[1]

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[1] BISD Twenty-Fifth Supplement, page 48. L/4833 paragraph 4.13.

4.9 Table 4 shows the shares of world export trade for the European Communities; Brazil and "Others" for the two periods which the Panel considered to qualify as "previous representative periods", namely 1971-73 and 1972-74 and for the years 1976 to 1979, to which the complaint referred. The Panel found that whichever of the two previous representative periods is used for comparison, the outcome would be fairly similar.

TABLE 4

Shares of World Export Trade in Sugar

(in per cent of world totals)

	European Communities	Brazil	Others
1971-73 (average)	7.8	10.4	81.8
1972-74 (average)	7.5	12.0	80.5
1976	8.3	5.5	86.2
1977	9.6	8.8	81.6
1978	14.4	7.8	77.8
1979 (preliminary)	14.1	8.0	77.9

Sources: Annex Tables I, II and X.

4.10 For the years 1976 and 1977, the Community share of world export trade in sugar showed some increase compared to average shares in 1971-73 and 1972-74, the increase corresponding to 0.5 to 2.1 percentage points. The very low market share for Brazil in 1976 was mainly due to a certain lack of sugar available for export caused by a reduced crop in 1975, low carry-over stocks and a continued increase in domestic consumption. In 1977, Brazilian sugar exports showed a good recovery and corresponded in absolute terms to the average for previous representative periods, but the market share did not reach the previous level. However, the Panel felt that Brazilian sugar exports in 1977 corresponded roughly to the quantities of sugar available for export, and that the comparatively low market share for Brazil was not necessarily due to increased Community exports.

4.11 For 1978, subsidized Community sugar exports were increased further, resulting in a significant increase in the Community share of world export trade in sugar. Exports from Brazil could not be increased in spite of ample supplies available for export and which would in themselves permit larger shipments to have been made. In 1978, the market share of Brazil was comparable to that in 1977 but remained inferior to the averages for the years 1971-73 and 1972-74. Preliminary data for 1979, available to the Panel, confirmed that the situation of 1978 had persisted in 1979. It was evident that the increase in Community sugar exports had been effected through the use of subsidies. The Panel therefore felt that the Community share of world export trade in sugar had increased in such proportions that a thorough examination of the situation was required.

(ii) Displacement

4.12 The Panel undertook systematic analysis of data for imports of sugar into a number of countries and also examined these data in detail with the parties to the dispute. The cases thus examined were selected markets which the representative of Brazil claimed constituted traditional outlets for Brazilian sugar, or new country markets located in those regions where Brazilian sugar had traditionally been offered for sale (countries listed in Annex Table IX). The purpose of the analysis and examination was to determine whether subsidized Community sugar exports had displaced Brazilian exports of sugar.

4.13 Table 5 shows total Brazilian and Community shares and that for "others" for a selection of markets examined (countries listed in Annex Table IX). For this selection of markets as a whole, the Community share started to increase in 1976 and was for the years 1978 and 1979 around two and a half times of what it had been in previous representative periods. Brazil's share which had been extremely low in 1976 (for reasons mentioned above), showed a good recovery in 1977, and the share then attained was more or less kept in the following years, but nevertheless remained inferior to the Brazilian share of the market in 1971-73 and 1972-74. The Panel therefore found that there was a change in the relative positions of Brazil and the European Communities for this group of markets as a whole.

TABLE 5

Shares of the Total of Imports into Selected Markets
(Countries Listed in Annex Table IX)
(in per cent of totals)

	European Communities	Brazil	Others
1971-73 (average)	6.5	15.7	77.8
1972-74 (average)	6.0	18.1	75.9
1976	8.4	5.6	86.0
1977	8.9	11.4	79.7
1978	15.6	11.3	73.1
1979 (preliminary)	13.9	9.7	76.4

Source: Annex Table IX.

4.14 Systematical analysis of trade statistics for individual markets did not produce statistically significant conclusions, and it was evident that developments had also been influenced by factors such as particular trade relations, competition from other exporters and prevailing market prices. The size and destination of Brazilian sugar exports in 1978 and 1979 were apparently also influenced by national sugar export policy. As an illustration it can be mentioned that in the major outlet for Brazilian sugar, i.e. the United States market, Brazilian sales which had been very low in 1975 and 1976 reached a level comparable to that of 1971-73 in 1977 and 1978. In 1979, Brazilian sales of sugar to the United States market exceeded 1 million tons, nearly twice the sales in previous years, resulting in Brazil having a share of that market of almost one fourth.

4.15 An examination of individual markets indicated that there was simultaneously a decline in Brazilian sales and an increase in imports from the European Communities only in a few markets (e.g. Lebanon, Morocco, Sudan and Tunisia), but in the majority of markets examined it was not possible to establish a clear relationship between developments in imports of sugar from Brazil and developments in imports of sugar from the European Communities. This systematic analysis thus did not provide clear and general evidence that Brazilian supplies had been directly displaced by subsidized exports of Community sugar.

(iii) Special factors

4.16 The entering into force on 1 January 1978 of the International Sugar Agreement, 1977, apparently had a strong impact on the volume of world sugar trade in 1977 already. In 1977, total world exports of sugar exceeded 28 million tonnes, with an increase of one quarter from the previous year, the largest annual increase ever recorded. These developments were due to efforts made by exporters to ship as much sugar as possible before the entry into operation of export quotas under the ISA on 1 January 1978, and also to an expectation prevailing among refiners and importers that prices might increase with the entry into force of the ISA.

4.17 However, as supplies continued to be affluent, world market prices for sugar remained depressed throughout 1978 and most of 1979. With a situation of depressed prices for sugar in the world market, major exporting members were committed to limit their exports to 85 per cent or less of their basic export tonnages stipulated in the ISA.[1] For major sugar exporting countries having acceded to the ISA, the result was a substantial contraction in their exports. In practice this meant that nearly 2 million tonnes of sugar was withheld from world markets by these countries both in 1978 and 1979. However, these efforts did not immediately result in a better market equilibrium as total supplies offered in the world market remained in excess of demand, due to increased exports under special arrangements not subject to the limitations under the ISA and to increased exports from countries not being members of the ISA. Among the non-members to the ISA, the European Communities accounted for nearly three quarters of the total supplies coming from these countries in 1978.[2] As a consequence, supplies of sugar to the world market remained high in 1978 and 1979 and prices did not improve before late in 1979. Major exporting members of the ISA were thus unable to obtain any immediate benefits of their efforts to stabilize the world sugar market. Export quotas were maintained at their minimum level in 1978 and 1979, and it was impossible to increase basic export tonnages as well. In this situation, Brazil was committed to limit its exports to 81.5 per cent of its basic export tonnages under the ISA, but this reduced quota was filled and even exceeded slightly both in 1978 and 1979.

(iv) Effects of the operation of Community regulations

4.18 The Panel proceeded to an examination of whether the increase in 1976 to 1979 in Community sugar exports, notably the increase in the Community share of world sugar export trade could be attributed to the operation of the Community regulations. With regard to production, the Panel noted that the Community system may put an economic but not necessarily legal limit to the size of the production.

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[1] Article 41 of the International Sugar Agreement, 1977.

[2] ISO Annual Report for the year 1978, page 32.

4.19 Some basic data for production, trade, consumption and stocks of sugar, for Brazil and the European Communities are shown in Annex Table I, and, for comparison, world totals for the same in Annex Table II. A simple comparison of the figures in these tables indicates that the increase in the Community sugar production corresponded roughly to the world average until 1978. For illustrative purposes, it can be mentioned that the Brazilian sugar production showed a stronger increase over the same period.

4.20 Graph 1 shows developments in Community sugar production, consumption and target prices from 1969 to 1979. Up to 1977, the Community area under sugar beet increased with the increase in the Community target price, the price policy, apparently being a stimulating factor. Although the increase in the target price was halted in 1977, and the area of sugar beet was reduced, total Community sugar production continued to increase because of higher average yields. Preliminary data for 1979 indicated that area, yields and total production remained at a level comparable to that of 1978.

4.21 It can be seen from Annex Table I and Graph 1 that there was a downwards shift in the Community sugar consumption in 1975 contributing together with a continued growth in production, significantly to increase exportable surpluses of sugar.

4.22 The Panel noted that the fixing of production quotas was of decisive importance for the application of the price system for sugar in the European Communities. It also noted that in 1975 the basic quota was raised from 7.82 million tons to 9.14 million tons and the maximum quota was maintained at 145 per cent of the basic quota. The basic quota was then maintained in the following years, but the maximum quota was reduced to 135 per cent in 1976 and reduced further to 127.5 per cent in 1978 and maintained at that level for 1979/80 (Annex Table VIII).

4.23 Furthermore, the Panel noted that sugar produced in excess of the basic quota, but within the limits of the maximum quota, was subject to a production levy of up to 30 per cent of the intervention price. Although this step was followed by a smaller area planted with sugar beets in 1977 and 1978, total production continued to increase, as yields were higher. The steps taken (i.e. reduced maximum quotas for 1978 and 1979 and the collection of production levies at their maximum level for 1977/78, 1978/79 and 1979/80) were therefore not sufficient to prevent the exportable surplus from increasing further in 1977 and 1978, and to remain at a high level in 1979.

4.24 The Panel understood the Community system of regulations concerning the sugar markets to imply that the quantity exported from the European Communities with an export refund would be limited by the total of maximum production quotas, plus imports under special arrangements minus domestic consumption. Any sugar produced in excess of maximum quotas must be disposed of on external markets without benefiting from any refund. Table 3 shows Community exports totally and with a breakdown into exports with refunds and exports without refunds in 1972-1978. A comparison of figures for 1976, 1977 and 1978 with averages for 1972-1974, indicates clearly that the increase in Community sugar exports in 1976-1978 mainly consisted of increased exports with export refunds, i.e. sugar produced within the maximum quota. Both in 1976 and 1977, exports without refunds were inferior to the average for 1972-1974. Although Community exports without refund (C - sugar) showed some increase in 1977 and 1978, the reduction in maximum quotas and the application of production levies had not prevented that exports with refund continued to increase even in 1978, and still counted for 76 per cent of Community sugar exports.

4.25 The Panel noted the strong increase in the total amount spent by the European Communities on refunds of sugar in 1977, 1978 and 1979. This was partly due to larger Community exports entitled to refund and to falling world market prices, but partly also due to the annual increases in the Community market intervention price for sugar. When examining the question of whether Community export refunds could be subject to budgetary limits, the Panel noted that if the appropriations originally allocated to the Guarantee Section of the European Agriculture Guidance and Guarantee Fund proved to be insufficient in any particular year, the Commission could have recourse to a supplementary budget during the financial year and there would thus be no legally fixed budgetary limits for how much could be spent on export refunds for sugar.

4.26 The Panel felt that in those conditions neither exportable surpluses of sugar nor the amount of export refunds granted had been effectively limited as a result of the Community system or its application. There was no element in the system and its application that would prevent the European Communities from having more than an equitable share of world export trade in sugar.

(d) Effect on world market prices

4.27 In examining more in detail the granting of export refunds on sugar by the European Communities, the Panel noted that for the quasi-totality of exports with refunds, the refunds were granted under the tendering procedure (e.g. for 91 per cent in 1976, 97 per cent in 1977 and almost 100 per cent in 1978 and 1979 - Table 3). Under the tendering procedure, the Commission fixed maximum amounts of refunds and for a given quantity, taking into account the supply situation and prices within the Community, prices and potential outlets on the world market, and costs incurred in exporting sugar. The

Commission's determination of what were world market prices for sugar was based on the amount of refund proposed in the tenders, which were occasionally based on prices lower than the average quotations for white sugar published by the Paris Exchange. In such situations, Brazilian sugar, (notably white sugar), which in the absence of long-term contracts was offered at prevailing world market prices (i.e. London and New York quotations), was at a disadvantage and had difficulties in competing with subsidized Community sugar (e.g. in Iran, Israel, Kuwait and Nigeria).

4.28 The Panel noted that the weighted average of export refunds usually corresponded to the difference between the Community intervention price at f.o.b. stage and average spot quotations for white sugar on the Paris Exchange (Annex Table VII). However, towards the end of the crop years 1975/76, 1976/1977, and 1977/1978 the weighted average refund had tended to exceed that difference (Annex Table VII). The Panel also noted that from the middle of 1976 on, Community export refunds were increased sharply with only little difference between weighted average refunds and maximum refunds. These developments coincided with a sharp decline in world market prices. Furthermore, the premium for white sugar had diminished, and at times white sugar had been quoted at prices lower than those quoted for raw sugar.

4.29 The Panel felt that since the Community sugar exporters were leading the world market for white sugar, traditionally covering more than half of the world market for refined sugar, the availability of exportable Community surpluses of sugar combined with the possibility of non-limited amounts available to cover export refunds, inevitably must have had an amplifying effect on the depressed world market prices for sugar, both white and raw sugar.

(e) Articles XXXVI and XXXVIII

4.30 The Panel noted the principles and objectives stipulated in Article XXXVI and the guidelines for joint action given in Article XXXVIII to further the objectives set forth in Article XXXVI, and that Brazil being a developing country could expect to enjoy benefits in accordance with these provisions. In this connexion, the Panel also noted that the European Communities had made considerable efforts in favour of a number of developing countries and had pursued an active and constructive policy towards the setting-up of international agreements.

4.31 However, the Panel also noted that in the particular situation in the sugar market in 1978 and 1979, when Brazil and other developing countries took action through the ISA to improve the market situation, the European Communities increased its subsidized sugar exports to an extent that inevitably reduced significantly the effects of the measures taken by Brazil and other sugar exporters. It was evident that the magnitude of subsidized Community sugar exports together with the extensive use of maximum export

refunds, tended to accentuate the detrimental effect on export earnings of other sugar exporters directly faced with the competition from Community sugar. The Panel felt that even though the European Communities was not a party to the ISA and not bound by the same obligations as members to that Agreement, it would nevertheless be appropriate to collaborate with other contracting parties in conformity with the guidelines given in Article XXXVIII and thus further the principles and objectives of Article XXXVI.

V. Conclusion

In the light of the foregoing, the Panel reached the following conclusions:

(a) The Panel found that the Community system for granting refunds on exports of sugar must be considered to be a form of subsidy and thus subject to the provisions of Article XVI, and it noted that the parties to the dispute were in agreement with this interpretation.

(b) The Panel noted that Brazilian sugar exports had been extremely low in 1976, but that this was due to other factors than competition from Community sugar and furthermore that Brazilian exports in 1977 corresponded roughly to the quantities available for export. The Panel therefore concluded that although the Community share of world export trade in sugar had increased somewhat in 1976 and 1977, this increase was not to be considered as unusual and did not explain the reduced market share of Brazil in these years.

(c) For the years 1978 and 1979 (according to preliminary figures), the Panel found that the Community share of world export trade in sugar was significantly higher than in previous representative periods, while the market share of Brazil was comparable to that of 1977, but remained inferior to averages for previous representative periods. The Panel furthermore found that for a group of markets where it was believed to have been a direct competition between Community and Brazilian sugar, the Community share had increased even stronger, while the share of Brazil basically maintained its level of 1977. Further expansion in Brazilian exports in 1978 and 1979 was limited by Brazilian commitments under the ISA, but Brazil filled and even exceeded slightly its reduced ISA export quotas in both years.

(d) A close examination of individual markets did not provide clear and general evidence that Community exports had directly displaced Brazilian exports. There was simultaneously a decline in Brazilian sales and an increase in imports from the European Communities in only a few markets of minor importance.

(e) Therefore, in light of all the circumstances related to the present complaint and especially taking into account the difficulties in establishing clearly the causal relationships between the increase in Community exports, the developments of Brazilian sugar exports and other developments in the world sugar market, the Panel found that on the basis of the evidence available to it in this particular case, it was not able to conclude that the increased share had resulted in the European Communities "having more than an equitable share of world export trade in the product", in terms of Article XVI:3.

(f) The Panel concluded that in view of the quantity of Community sugar made available for export with maximum refunds and the non-limited funds available to finance export refunds, the Community system of granting export refunds on sugar had been applied in a manner which in the particular market situation prevailing in 1978 and 1979, contributed to depress sugar prices in the world market, and that this constituted a serious prejudice to Brazilian interests, in terms of Article XVI:1.

(g) The Panel found that the Community system of export refunds for sugar did not comprise any pre-established effective limitations in respect of either production, price or the amounts of export refunds and that the Community system had not been applied in a manner so as to limit effectively neither exportable surpluses nor the amount of refunds granted. Neither the system nor its application would prevent the European Communities from having more than an equitable share of world export trade in sugar. The Panel, therefore, concluded that the Community system and its application constituted a permanent source of uncertainty in world sugar markets and therefore constituted a threat of serious prejudice in terms of Article XVI:1.

(h) The Panel recognized the efforts made by the European Communities in complying with the provisions of Articles XXXVI and XXXVIII. It nevertheless felt that increased Community exports of sugar through the use of subsidies in the particular market situation in 1978 and 1979, and where developing contracting parties had taken steps within the framework of the ISA to improve the conditions in the world sugar market, inevitably reduced the effects of the efforts made by these countries. For this time-period and for this particular field, the European Communities had therefore not collaborated jointly with other contracting parties to further the principles and objectives set forth in Article XXXVI, in conformity with the guidelines given in Article XXXVIII.

DRAFT STATISTICAL ANNEX

Table

ANNEX TABLE I

Production, Trade, Consumption and Stocks of Beet and Cane Sugar in Brazil and the European Communities

1969-1979

	Unit	Quantities											Indices 1969 = 100									
		1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979 (preliminary)	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979 (prelim)
EUROPEAN COMMUNITIES																						
Sugar area	000'ha	1519	1519	1530	1599	1713	1726	1906	1956	1844	1838	1848	100	101	105	113	114	125	129	121	121	122
Yield beet	kg/ha	42839	41360	44510	42455	43309	40536	40993	41836	44691	..	..	97	104	99	101	95	96	98	104	..	..
sugar	kg/ha	6303	5982	6724	6214	5941	5352	5676	5510	6756	6890	7198	95	107	99	94	85	90	87	107	109	114
Production[1]	000'tons	9575	9087	10287	9736	10177	9237	10818	10778	12458	12816	13302	95	107	104	106	96	113	113	130	132	139
Exports[1]	000'tons	808	1179	1288	1920	1916	1123	702	1868	2699	3566	3577	146	159	238	237	140	87	231	334	441	443
Imports[1]	000'tons	2508	2221	2297	2294	2228	2164	2154	2078	1733	1656	1475	89	92	91	89	86	86	83	69	66	59
Net imports[1]	000'tons	1700	1042	1009	374	313	1037	1452	209	966[2]	1910[2]	2102[2]	161	51	22	18	63	85	12	..	..	..
Consumption[1]	000'tons	10445	10692	10461	10475	11116	11698	9541	10751	9871	10550	10463	102	100	100	106	112	91	103	95	101	100
Stocks at end of year[1]	000'tons	8057	7573	8451	8305	7678	6253	8983	9219	10840	11196	11933	94	105	103	95	78	111	114	135	137	148
BRAZIL																						
Sugar area	000'ha	1672	1725	1692	2000	1959	2159	2022	2095	2267	2413	..	103	101	120	117	129	121	125	136	144	..
Yield cane	kg/ha	45004	46230	47051	47537	46904	44646	45187	49295	52997	53544	..	103	105	106	104	99	100	110	118	119	..
sugar	kg/ha	2496	2910	3131	3076	3541	3210	3115	3454	3864	3279	..	117	125	123	142	128	125	138	155	131	..
Production	000'tons	4174	5019	5298	6151	6937	6931	6299	7236	8759	7913	7362	120	127	147	166	166	151	173	210	190	176
Exports[1]	000'tons	1061	1130	1230	2638	2975	2303	1730	1252	2487	1925	1942	107	116	249	280	217	163	118	234	181	183
Imports[1]	000'tons	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net exports[1]	000'tons	1061	1130	1230	2638	2975	2303	1730	1252	2487	1925	1942	107	116	249	280	217	163	118	234	181	183
Consumption[1]	000'tons	3404	3495	3797	4125	4266	4577	4990	5091	5060	5289	6009	103	112	121	125	134	147	150	149	155	177
Stocks at end of year[1]	000'tons	2247	2670	3076	2464	2160	2211	1790	2683	3895	4594	4005	119	137	110	96	98	80	119	173	204	178

[1] Centrifugal sugar, raw value

[2] Net exports

Source: ISO, Sugar Yearbook, 1976 and 1978; FAO, Production Yearbook, various issues

ANNEX TABLE II

World Production, Trade, Consumption and Stocks of Beet and Cane Sugar, 1969-1979

	Unit	Quantities											Indices 1969 - 100									
		1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979 (preliminary)	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979 (preliminary)
BEET SUGAR																						
Sugar beets																						
Area	000' ha	7675	7646	7693	7995	8179	8264	8991	9351	9048	9026	..	100	99	104	107	108	117	122	118	118	..
Production	000' tons	219416	228813	230353	244715	253332	242967	255708	308101	295254	289080	..	104	105	111	115	111	117	138	135	132	..
Yield	kg./ha	28588	29928	30180	30553	30972	29399	28439	32309	32632	32026	..	105	106	107	108	103	99	113	114	112	..
Centrifugal beet sugar																						
Production	000' tons	30870	29329	30924	32205	31979	29854	32069	33775	36018	36330	34347	95	100	104	104	97	104	109	117	118	111
Yield	kg./ha	4022	3835	4051	4028	3910	3613	3568	3612	3981	4025	..	95	101	100	97	90	89	90	99	100	..
CANE SUGAR																						
Sugar cane																						
Area	000' ha	11147	11400	11346	11318	11600	12154	12352	12707	13342	13881	..	102	102	102	104	109	111	114	120	125	..
Production	000' tons	595358	621036	598383	597325	609209	654890	660497	691614	735573	781291	..	104	101	100	102	110	111	116	124	131	..
Yield	kg./ha	53410	54477	52738	52776	52516	53884	53474	54429	55134	56285	..	102	99	99	98	101	100	102	103	105	..
Centrifugal cane sugar																						
Production	000' tons	38726	43575	43033	43446	45839	49089	49394	52540	55845	55978	54557	113	111	112	118	127	128	136	144	145	141
Yield	kg./ha	3474	3822	3793	3838	3952	4039	3999	4135	4186	4033	..	100	109	110	114	116	115	119	121	116	..
BEET AND CANE CENTRIFUGAL SUGAR																						
Production	000' tons	69596	72896	73957	75651	77817	78943	81464	86314	91864	92308	88904	105	106	109	117	113	117	124	132	133	128
Exports	000' tons	18468	21127	20956	21786	22416	21944	20437	22568	28190	24797	25937	114	113	118	121	119	111	122	153	134	138
Consumption	000' tons	68611	72121	74387	75834	78531	80057	77096	82123	84834	87935	89603	105	108	111	115	117	113	120	124	129	131
Stocks at end of year	000' tons	32969	32485	31681	30737	29991	28788	32536	35970	42198	46282	45580	99	96	91	91	86	99	110	128	140	138

Sources: FAO, Production Yearbook, various issues; ISO, Sugar Yearbook and Statistical Bulletin, various issues.

ANNEX TABLE III

International Sugar Agreement Daily Price[1]

Monthly Averages US cents/lb.

	Average 1969-73	1974	1975	1976	1977	1978	1979
January	5.59	15.16	38.31	14.02	8.34	8.77	7.57
February	5.65	21.09	33.98	13.50	8.59	8.48	8.23
March	5.75	21.10	26.40	14.79	8.98	7.74	8.46
April	5.57	21.60	23.90	14.05	10.04	7.59	7.82
May	5.52	23.63	17.37	14.54	8.95	7.33	7.84
June	5.44	23.51	13.65	12.99	7.87	7.23	8.11
July	5.31	25.03	16.69	13.21	7.39	6.43	8.52
August	5.25	30.63	18.61	10.02	7.61	7.08	8.85
September	5.32	34.15	15.50	8.13	7.31	8.17	9.90
October	5.60	39.50	14.07	8.03	7.09	8.96	11.94
November	5.70	56.14	13.47	7.88	7.07	8.01	13.68
December	6.74	44.68	13.19	7.55	8.09	8.00	14.93
Average	5.62	29.66	20.37	11.51	8.10	7.82	9.65

Source: International Sugar Organization (Sugar Year Book and Statistical Bulletin)

[1] The International Sugar Agreement Daily Price is the arithmetical average of the New York Coffee and Sugar Exchange Contract No. 11 spot price and the London Daily Price after conversion of the latter to US cents per pound avoirdupois f.o.b. and stowed Caribbean Port in bulk or, if the difference between these two f.o.b. prices is more than ten points (six points until the end of 1973) the lower of the two prices plus five (three) points. From 3 November 1977, the LDP after the appropriate conversion is the I.S.A. Daily Price in accordance with a council decision.

ANNEX TABLE IV

World Market Prices for Sugar

A. Annual averages

UA/100 kg.

Crop years (July-June)	Paris Exchange	London Daily Price Raw Sugar	London Daily Price White Sugar	New York Contract No.8 or 11
1969/70	7.51	8.24	-	7.38*
1970/71	10.99	10.59	-	9.51*
1971/72	15.75	13.99	-	13.22
1972/73	19.30	17.53	-	17.25
1973/74	37.52	33.53	-	27.34
1974/75	66.60	57.36	-	54.39
1975/76	29.47	27.39	29.35	25.74
1976/77	19.85	16.90	20.05	15.14
1977/78	13.55	13.06	13.76	..
1978/79	15.45	14.87	15.54	..

Note: Paris: White sugar - f.o.b. designed European ports, in new bags.

London: Raw sugar - 96° c.i.f. United Kingdom in bulk
White sugar - f.o.b. and stowed designed European ports, in new bags.

New York: Raw sugar - 96° f.o.b. and stowed Caribbean area (since June 1971 Contract No.11).

* = Contract No.8

Source: EC Agricultural Markets Nos. 16, 1977; 16, 1978; and 4, 1980

ANNEX TABLE IV (cont'd)

B. Monthly averages

UA/100 kg.

Crop Years (July-June)	Paris Exchange	London Daily price Raw sugar	London Daily price White sugar	New York Contract No.11
1974/75				
JUL	53.24	46.78	..	43.76
AUG	60.64	56.89	..	55.08
SEP	69.29	64.88	..	61.64
OCT	76.69	73.12	..	70.21
NOV	122.57	101.66	..	99.63
DEC	103.13	80.80	..	76.01
JAN	82.56	67.30	..	62.74
FEB	69.85	58.32	..	53.76
MAR	51.83	44.42	..	41.55
APR	46.08	40.74	..	38.42
MAY	35.19	29.86	..	27.85
JUN	28.15	23.56	..	22.01
1975/76				
JUL	31.38	29.37	..	28.13
AUG	35.98	34.53	..	32.53
SEP	32.08	29.20	..	27.07
OCT	28.23	26.52	..	29.98
NOV	28.33	25.35	..	23.44
DEC	27.63	24.91	..	23.61
JAN	29.54	26.32	..	24.97
FEB	28.61	25.43	..	24.04
MAR	29.84	28.11	..	26.53
APR	27.01	26.49	..	24.78
MAY	27.56	27.36	..	25.67
JUN	27.50	25.05	..	23.09

ANNEX TABLE IV (cont'd)

B. Monthly averages

UA/100 kg.

Crop Years (July-June)	Paris Exchange	London Daily price Raw sugar	London Daily price White sugar	New York Contract No.11
1976/77				
JUL	29.30	25.52	..	23.49
AUG	25.57	19.79	..	17.69
SEP	22.29	16.04	..	14.19
OCT	20.05	15.44	..	13.62
NOV	18.86	14.62	..	13.24
DEC	18.00	14.23	..	12.47
JAN	17.89	15.57	..	13.74
FEB	17.89	16.07	..	14.30
MAR	17.31	16.49	..	14.88
APR	17.82	18.17	..	16.68
MAY	17.44	16.30	..	14.61
JUN	15.78	16.11	..	12.78
1977/78				
JUL	14.45	13.44	14.78	11.93
AUG	13.13	13.76	13.57	12.24
SEP	12.58	13.34	13.02	11.83
OCT	13.28	12.74	13.40	11.34
NOV	13.80	12.54	13.91	..
DEC	14.37	13.78	14.49	..
JAN	14.72	14.39	14.80	..
FEB	15.26	13.87	15.15	..
MAR	12.58	12.47	13.01	..
APR	12.52	12.20	12.81	..
MAY	12.90	12.19	13.01	..
JUN	13.00	12.03	13.21	..

ANNEX TABLE IV (cont'd)

B. Monthly averages

Ecu/100 kg.

Crop Years. (July-June)	Paris Exchange	London Daily price Raw sugar	London Daily price White sugar	New York Contract No.11
1978/79				
JUL	14.41	12.92	14.50	..
AUG	15.20	13.82	15.44	..
SEP	16.08	15.44	16.25	..
OCT	16.67	16.09	16.65	..
NOV	15.27	14.81	15.22	..
DEC	14.43	14.81	14.77	..
JAN	13.90	13.92	13.99	..
FEB	15.28	14.94	15.29	..
MAR	15.60	15.49	15.55	..
APR	15.63	14.86	15.65	..
MAY	16.31	15.26	16.38	..
JUN	16.68	16.08	16.78	..
1979/80				
JUL	16.23	16.09	16.23	..
AUG	17.84	16.78	18.16	..
SEP	19.49	18.37	19.81	15.79
OCT	22.90	21.47	23.02	18.75
NOV	27.43	24.19	27.70	21.77
DEC	28.57	26.66	28.94	22.98
JAN	30.37	29.21	30.55	26.34
FEB	40.21	38.13	40.42	35.66
MAR	38.23	35.39	38.38	32.44

Source: EC Agricultural Markets Nos. 16, 1977; 16, 1978; and 4, 1980.

ANNEX TABLE V

EUROPEAN COMMUNITIES

Import Prices for Sugar

CAF/CIF Rotterdam

UA/100 kg.

Averages	White sugar	Raw sugar
A. Annual averages		
1968/69	5.81	6.80
1969/70	6.99	8.30
1970/71	9.78	10.66
1971/72	14.95	13.99
1972/73	19.50	17.52
1973/74	33.52	30.33
1974/75	62.79	57.33
1975/76	29.68	27.35
1976/77	20.05	16.91
1977/78	14.08	13.08
1978/79[1]	16.07	14.86
B. Monthly averages		
1974/75		
JUL	53.16	46.52
AUG	59.60	56.72
SEP	70.66	64.68
OCT	79.31	72.29
NOV	108.82	100.09
DEC	81.49	80.42
JAN	66.67	68.57
FEB	61.09	59.53
MAR	55.16	44.26
APR	50.52	40.96
MAY	38.35	30.23
JUN	28.70	23.66

[1] Ecu/100 kg.

Source: EC Agricultural Markets, Nos. 16, 1977; 16, 1978; and 4, 1980

ANNEX TABLE V (cont'd)

UA/100 Kg.

	White sugar	Raw sugar
Monthly averages (contd.)		
1975/76		
JUL	31.46	29.24
AUG	36.40	34.30
SEP	32.83	29.20
OCT	28.64	26.60
NOV	28.49	25.30
DEC	28.33	24.85
JAN	29.98	26.32
FEB	28.44	25.44
MAR	29.96	28.12
APR	27.08	26.52
MAY	27.64	27.38
JUN	26.77	25.06
1976/77		
JUL	29.08	25.55
AUG	24.24	19.67
SEP	22.30	16.04
OCT	20.45	15.45
NOV	19.18	14.65
DEC	17.44	14.23
JAN	18.84	15.48
FEB	18.47	16.07
MAR	17.94	16.49
APR	18.59	18.22
MAY	17.81	16.36
JUN	16.23	14.65
1977/78		
JUL	14.66	13.45
AUG	13.52	13.75
SEP	13.25	13.34
OCT	13.51	12.74
NOV	14.07	12.58
DEC	15.09	13.76
JAN	15.40	14.36
FEB	15.67	13.87
MAR	13.11	12.48
APR	12.41	12.20
MAY	13.03	12.21
JUN	13.07	12.03

ANNEX TABLE V (cont'd)

Ecu/100 kg.

	White sugar	Raw sugar
Monthly averages (contd.)		
1978/79		
JUL	14.62	12.89
AUG	15.96	13.82
SEP	16.97	15.44
OCT	17.31	16.09
NOV	15.89	14.77
DEC	15.50	14.82
JAN	14.74	13.92
FEB	16.03	14.94
MAR	16.32	14.45
APR	15.80	14.86
MAY	16.63	15.24
JUN	17.06	16.06
1979/80		
JUL	16.56	16.08
AUG	18.50	16.81
SEP	20.00	18.37
OCT	23.47	21.45
NOV	28.27	24.21
DEC	29.28	26.61
JAN	31.21	29.19
FEB	40.88	38.21
MAR	38.84	35.40

ANNEX - TABLE VI

EUROPEAN COMMUNITIES - INTERNAL SUGAR PRICES

Products Nature of the prices	1960/69	1969/70	1970/71	1971/72	1972/73	1973/74	1974/75 A	1974/75 B 7.10.74	1975/76	1976/77	1977/78	1978/79		1979/80
SUGAR Basic regulation Period of appl. Applied regulations	No 1009/67/CEE of 18.12.1967 JUL-JUN 430/68 432/68 767/68 2563/69	766/69 767/69 1201/69 2643/70	1205/70 1206/70 2811/71 2813/71	1061/71 1062/71 478/73	794/72 795/72 238/73 239/73 3266/73	1345/73 1637/73 3026/74 1766/73 239/73	1600/74 1599/74 239/73 2518/74	2496/74 2518/74	EEC regulation No 3339/74 659/75 660/75	833/76 834/76	1112/77 1466/77	1398/78 1399/78		1008/79 1288/79
B. WHITE SUGAR												UA/100kg	Ecu/100 kg.	(5)
Quality	3rd cat.	3rd cat.	3rd cat.	2nd cat.	2nd cat.	2nd cat.	2nd cat.	2nd cat.	2nd cat.	2nd cat.	2nd cat.			
- Target price	22.35	22.35	22.35	23.80	24.55	24.80	26.55	27.80	32.05	34.87	34.56	35.25	42.62	43.26
- Intervention price														
Comm.	21.23	21.23	21.23	22.61	23.34	23.57	25.22	26.48	30.45	33.14	32.83(4)	33.49	40.49	41.09
Italy	22.35	22.35	22.35	24.11	24.84	25.28 25.53(1)	27.43	28.69	33.00	35.70	35.36	35.99	42.42	43.03
DOM.(*)	20.90	20.90	20.90	22.28	23.01	23.24	24.99	26.25	30.25	32.94	32.63	33.29	40.25	40.85
Ireland					21.05(2)	21.65	23.57	24.75 27.48(3)	31.45	34.14	33.83	34.49	41.70	42.30
U.K.					18.96(2)	19.79	21.85	22.84 27.48(3)	31.45	34.14	33.83	34.49	41.70	42.30
- Threshold price	24.94	24.94	24.94	26.30	27.05	27.60	29.47	30.80	35.52	38.21	38.72	40.26	48.60	49.28
C. RAW SUGAR														
- Intervention price														
Comm.	18.50	18.50	18.50	19.22	19.85	20.05	21.41	22.47	25.84	28.15	27.25(4)	27.81	33.62	34.13
Italy	19.54	19.54	19.54	20.60	21.23	21.62 21.86(1)	23.44	24.50	28.19	30.51	27.25	27.81	33.62	34.13
DOM.(*)	18.66	18.66	18.66	19.38	20.01	21.21	21.66	22.71	26.12	28.43	27.53	28.10	33.97	34.48
Ireland	-	-	-	-	17.90(2)	18.41	20.01	21.02 23.39(3)	26.76	29.07	27.25	27.81	33.62	34.13
U.K.	-	-	-	-	14.97(2)	15.69	17.57	18.44	26.76	29.07	27.25	27.81	33.62	34.13
- Threshold price	22.37	22.37	22.37	23.07	23.73	24.21	25.78	26.90	30.97	33.28	34.06	34.45	41.65	42.23

(1) Valid from 1.7.1973

(2) Valid from 1.2.1973

(3) Valid from 1.1.1975

(4) From 1977/78 onwards, the storage cost element was not taken into account.

(*) French overseas departments

(5) 1 UA = 1,208953 ECU

Source: EC Agricultural Markets No. 16, 1978 (10.10.197[illegible] and No.4, 1980.

ANNEX TABLE VII

WHITE SUGAR

"SPOT" QUOTATIONS PARIS, COMMUNITY REFUND AND INTERVENTION PRICES AT F.O.B. STAGE

(UA/100 kgs.)

Month	Average "spot" quotations, Paris exchange	Weighted average of export refunds	Total (1) + (2)	Sugar intervention price at f.o.b. stage
	1	2	3	4
1972				
January	18.65	1.989	20.639	24.61
February	19.90			"
March	20.54	1/		"
April	18.94	2.221	21.161	"
May	18.78	4.416	23.169	"
June	17.48			"
July	14.14	10.414	24.554	25.34
August	16.28	7.812	24.092	"
September	18.37	5.245	23.615	"
October	19.03	3.522	22.552	"
November	19.11	3.795	22.905	"
December	21.52	1.973	23.493	"
1973				
January	22.02	2.314	24.334	"
February	20.40	4.496	24.896	"
March	19.74	5.023	24.763	"
April	19.48	5.525	25.005	"
May	20.80	5.163	25.963	"
June	20.66			"
July	20.73			25.57
August	19.95	4.411	24.361	"
September	19.92	5.001	24.921	"
October	20.58	4.688	25.268	"
November	24.68	0.003	24.683	"
December	27.36	1/		

1/ Period during which world prices were higher than Community prices and for some time the Community had to effect subsidized imports.

ANNEX TABLE VII (cont'd)

Month	1	2	3	4
1974		)		
January	35.76	)		
February	45.17	)		
March	48.04	)		
April	49.22	)		
May	48.80	)		
June	51.24	) 1/		
July	53.24	)		
August	60.64	)		
September	69.89	)		
October	76.69	)		
November	122.57	)		
December	103.13	)		
		)		
1975		)		
January	82.56	)		
February	69.85	)		
March	51.83	)		
April	46.08	)		
May	35.19	)		
June	28.15	)		
July	31.38	)		
August	35.98	)		
September	32.08	)		
October	28.23	)		
November	28.33	0.919	29.249	33.45
December	27.63	4.195	31.825	"
1976				
January	29.54	3.931	33.471	"
February	28.61	4.645	33.255	"
March	29.84	3.862	33.702	"
April	27.01	6.001	33.011	"
May	27.56	5.499	33.059	"
June	27.50	6.154	33.654	"
July	29.30	5.388	34.688	36.14
August	25.61	8.775	34.385	"
September	22.29	11.314	33.604	"
October	20.05	14.043	34.093	"
November	18.86	16.052	34.912	"
December	18.800	16.935	34.935	"

1/ Period during which world prices were higher than Community prices and for some time the Community had to effect subsidized imports.

ANNEX TABLE VII (cont'd)

Month	1	2	3	4
1977				
January	17.89	17.042	34.932	"
February	17.89	17.421	35.311	"
March	17.31	18.449	35.759	"
April	17.82	18.227	36.047	"
May	17.44	19.424	36.864	"
June	15.78	21.991	37.771	"
July	14.45	23.559	38.009	37.60
August	13.13	23.730	36.860	"
September	12.58	23.701	36.281	"
October	13.28	23.193	36.473	"
November	13.80	22.669	36.469	"
December	14.37	22.002	36.372	"
1978				
January	14.72	21.651	36.371	"
February	15.26	21.533	36.793	"
March	12.58	24.284	36.864	"
April	12.52	24.718	36.938	"
May	12.90	25.000	37.900	"
June	13.00	25.258	38.258	"
July	11.92	25.987	37.907	38.47
August	12.57	25.545	38.115	"
September	13.30	24.706	38.006	"
October	13.79	23.595	37.385	"
November	12.63	24.687	37.617	"
December	11.94	25.235	37.175	"

Source: The Commission of the European Communities.

ANNEX TABLE VIII

EUROPEAN COMMUNITIES: SUGAR PRODUCTION QUOTAS, AND SUGAR PRODUCTION (TOTAL AND BY CATEGORY)

A - Sugar: Sugar produced within basic quotas

B - Sugar: Sugar produced in excess of basic quotas, but within maximum quotas

C - Sugar: Sugar produced in excess of maximum quotas

Year	Quotas		Production			
	Basic	Maximum	Total	of which[a]		
	'000 tons (white value)	in % of basic quota		A - Sugar	B - Sugar	C - Sugar[c]
			'000 tons (white value)			
1973/74	7.820	135	9.516	7.522	1.337	670
1974/75	7.820	145	8.570	6.984	1.380	213[b]
1975/76	9.136	145	9.703	8.532	1.074	97
1976/77	9.136	135	10.003	8.599	1.221	153
1977/78	9.136	135	11.536	8.863	1.886	793
1978/79	9.136	127.5	11.776	9.002	1.913	807
1979/80	9.136	127.5	11.706	..	..	..

Note: (a) Differences between totals and the sum of A, B and C are due to carry-over of quotas from one season to another.

(b) Of which 189.000 tons were sold on the Community market following a situation of shortage.

(c) C - Sugar is outside maximum quotas and does not qualify for export refunds.

Source: The Commission of the European Communities.

ANNEX TABLE IX

Sugar imports into selected countries, 1971 to 1979
('000 tons, raw value)

	Algeria	Egypt	Ghana	Morocco	Nigeria	Senegal	Sudan	Tunisia	China	Indonesia	Iran	Iraq	Japan	Jordan	Lebanon	Malaysia	Sri Lanka	Syria	Korea	Finland	Portugal	Yugoslavia	U.S.S.R.	Chile	Venezuela	U.S.A.	Israel	Kuwait	Spain	Saudi Arabia	TOTAL	Market share: Annual	Market share: Average	Change in average
TOTAL IMPORTS																																	
1971	233	52	65	269	145	79	242	114	464	151	96	296	2,366	51	55	338	312	217	253	210	234	155	1,536	177	-	5,069	162	27	50	102	10,463	100.0		
1972	233	72	49	230	130	87	191	132	749	1	107	210	2,954	71	54	373	222	155	219	224	243	295	1,924	233	-	4,952	180	23	118	156	10,885	100.0		
1973	279	62	62	283	141	80	165	114	736	261	303	474	2,445	20	54	361	179	203	312	208	260	331	2,631	297	47	4,835	142	25	126	163	12,318	100.0		
1974	408	103	47	296	71	63	157	141	411	121	393	427	2,855	51	81	367	46	225	308	158	355	58	1,856	174	47	5,250	157	53	511	111	11,660	100.0		
1975	296	216	50	246	115	84	144	111	313	66	677	328	2,546	48	66	364	61	155	360	176	358	156	3,237	178	-	3,515	150	40	387	122	11,173	100.0		
1976	382	245	45	273	267	77	143	204	627	174	188	364	2,513	112	36	348	47	171	313	141	291	316	3,760	98	110	4,228	156	40	130	177	12,625	100.0		
1977	492	221	31	427	382	73	178	151	1,676	545	377	480	2,789	45	172	419	100	190	428	190	336	85	4,776	342	124	5,291	141	52	203	239	17,080	100.0		
1978	411	509	39	261	595	37	220	210	1,438	460	876	431	2,353	86	78	398	176	182	616	133	339	-	3,993	295	440	4,257	170	43	30	275	15,709	100.0		
1979*	444	325	56	238	527	48	201	200	997	463	746	460	2,686	72	102	456	245	280	669	98	330	-	4,080	294	300	4,436	133	82	107	226	19,301	100.0		
FROM BRAZIL																																	
1971	20	-	10	69	-	31	-	45	-	-	-	23	27	-	7	38	11	25	17	24	-	-	-	1	-	590	-	-	-	-	656	8.2		
1972	78	49	-	70	-	16	40	31	411	-	12	74	115	14	6	-	62	34	-	29	10	-	300	26	-	578	-	-	-	-	1,868	17.2	85.7%	
1973	79	-	-	105	-	-	104	28	368	68	190	208	100	5	53	-	112	54	10	75	76	39	458	32	37	992	-	-	-	-	2,683	21.8		
1974	279	63	-	61	-	40	-	48	-	-	62	235	187	-	32	8	-	70	-	2	11	-	-	72	13	711	21	-	47	-	1,767	15.2		
1975	173	2	5	13	-	8	-	12	72	-	39	244	398	-	10	-	-	75	-	12	41	16	95	39	-	180	36	18	23	-	1,193	10.0		
1976	226	62	-	14	-	6	-	21	-	-	10	164	180	1	-	-	-	24	-	48	14	50	-	-	60	-	-	3	-	-	703	5.6		
1977	201	50	22	23	16	11	80	29	164	145	64	352	160	5	-	-	21	23	-	37	87	22	24	11	41	510	-	-	-	-	1,939	11.4	9.4%	
1978	15	146	11	-	45	24	31	-	142	120	170	127	22	18	-	25	10	10	15	28	125	-	83	40	79	545	-	-	-	-	1,769	11.3		-6.3
1979*	-	85	11	22	36	41	55	13	42	24	133	122	-	-	-	-	-	-	-	-	36	-	99	22	86	1,053	-	-	-	-	1,880	9.7		
FROM EEC																																	
1971	21	-	35	-	85	36	12	32	-	20	4	42	1	-	1	-	55	14	-	-	8	28	-	5	-	75	94	2	2	11	576	5.5		
1972	81	1	48	-	118	53	32	46	-	-	13	36	-	1	-	-	-	-	-	12	7	174	65	-	-	19	84	16	9	39	815	7.5	6.5%	
1973	120	-	62	-	108	80	30	59	-	-	13	48	-	4	1	-	-	20	-	-	-	139	-	-	-	6	73	21	24	54	808	6.6		
1974	56	7	47	-	53	23	-	21	-	18	1	-	-	9	1	-	-	23	-	-	5	4	-	-	-	-	110	24	53	10	455	3.9		
1975	67	-	17	-	81	8	-	41	-	13	14	-	-	1	19	-	-	-	-	-	-	13	-	-	-	-	18	-	2	15	234	2.6		
1976	26	29	21	12	254	4	19	79	-	-	12	63	-	9	36	-	-	10	-	-	57	11	298	-	25	15	46	26	6	68	1,058	8.4		
1977	62	-	2	83	354	3	5	88	-	25	166	14	-	11	150	-	1	-	-	16	28	-	249	26	-	51	93	50	41	25	1,518	8.9	11.0%	
1978	39	109	28	104	541	1	73	158	93	16	556	5	-	30	72	-	72	56	-	-	22	-	40	54	65	77	170	41	30	81	2,452	15.6		+4.5
1979*	137	5	45	58	481	-	124	133	100	14	613	48	-	72	94	-	-	103	-	15	54	-	244	27	-	-	133	81	27	74	2,682	13.9		
FROM OTHER																																	
1971	194	52	20	200	60	12	230	37	464	131	92	231	2,338	51	47	300	246	178	236	186	226	127	1,536	171	-	4,404	68	25	48	91	9,036	86.3		
1972	74	22	1	160	12	18	119	35	338	1	82	100	2,339	56	48	373	160	121	219	173	226	121	1,559	209	-	4,355	96	7	109	117	8,202	75.3	77.7%	
1973	80	62	-	178	33	-	31	27	368	193	100	218	2,945	11	-	361	67	129	302	133	184	153	2,173	265	10	4,237	69	4	102	109	8,827	71.6		
1974	73	33	-	235	18	-	157	72	411	103	330	192	2,366	42	48	359	46	132	308	156	339	54	1,856	102	34	4,539	26	29	411	101	9,438	80.9		
1975	66	214	28	233	34	68	144	58	241	53	624	84	2,148	47	37	364	61	80	360	164	317	127	3,142	139	-	3,335	96	22	362	107	9,766	87.4		
1976	130	154	24	247	43	67	124	104	627	174	166	137	2,333	102	-	348	47	137	313	93	220	255	3,402	78	25	4,213	110	11	124	109	10,864	86.0		
1977	229	171	7	321	12	59	93	34	1,512	375	147	114	2,629	29	22	419	78	167	428	137	221	63	4,503	305	83	4,730	48	2	162	214	13,624	79.7	79.6%	
1978	357	254	-	157	9	12	116	52	1,203	324	150	299	2,331	38	6	373	94	116	501	105	192	-	3,870	201	296	3,635	-	7	-	194	11,488	73.1		+1.9
1979*	307	235	-	158	10	7	22	54	855	425	-	290	2,686	-	8	456	245	177	669	83	240	-	3,737	245	214	3,383	-	1	80	152	14,739	76.4		

*1979 preliminary data

Note: .. = not available/not applicable

Source: ISO, Sugar Yearbook 1977, 1978 Statistical Bulletin.

ANNEX TABLE X

MARKET SHARES OF LEADING SUGAR EXPORTING COUNTRIES

In per cent of total world exports

	1972	1973	1974	1975	1976	1977	1978	1979*
Czechoslovakia	1.0	1.0	0.8	1.1	0.3	0.6	1.2	1.4
Poland	1.5	1.9	0.8	0.4	1.6	1.0	1.1	0.8
Cuba	19.0	21.4	25.0	28.1	25.5	22.1	29.2	28.7
Dominican Rep.	5.2	4.8	4.8	4.8	4.4	4.0	3.8	4.3
Jamaica	1.3	1.2	1.3	1.3	1.1	0.8	0.8	0.9
Mexico	2.7	2.6	2.3	1.1	0.1	-	0.3	0.2
Guyana	1.5	1.1	1.4	1.4	1.4	0.8	1.2	1.2
Peru	2.2	1.8	2.1	2.1	1.2	1.5	1.1	1.1
Taiwan	2.4	2.3	2.5	2.0	2.3	2.1	1.5	1.8
India	0.5	0.9	2.4	5.1	4.1	1.0	2.8	2.8
Philippines	5.8	6.5	7.5	4.9	6.7	9.1	4.6	4.7
Thailand	2.0	1.2	2.6	3.3	5.1	5.9	4.2	4.2
Mauritius	3.0	3.3	3.3	2.3	2.0	2.4	2.5	2.7
South Africa	4.8	4.1	3.8	4.0	3.8	4.9	2.9	3.0
Fiji	1.3	1.2	1.2	1.3	1.1	1.1	1.2	1.8
Argentina	0.8	2.1	3.0	1.0	1.3	3.4	1.5	1.4
Australia	10.6	9.5	8.3	9.7	11.6	10.5	8.1	8.2
Brazil	12.1	13.3	10.5	8.5	5.5	8.8	7.8	8.0
Sub-total	77.8	80.1	83.8	82.2	79.7	80.0	75.6	77.2
European Communities	8.8	8.5	5.1	3.4	8.3	9.6	14.4	14.1
World total	86.6	88.6	88.9	85.6	88.0	89.6	90.0	91.3

*Estimated

Source: The representative of Brazil (shares calculated on the basis of ISO Data).