

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

L/5031

29 September 1980

Limited Distribution

Original: English

EUROPEAN COMMUNITIES - REFUNDS ON EXPORTS OF SUGAR

Recourse to Article XXIII:2 by Australia

The following communication, dated 26 September 1980, has been received from the Permanent Mission of Australia, for the information of the CONTRACTING PARTIES.

You will recall that, following consideration by the Council of the above matter (including the draft decision circulated at Australia's request in document C/W/341) the Commission of the European Communities and Australia agreed to further bilateral discussions on the Article XVI:1 findings in the report of the GATT Panel on Australia's complaint.

These discussions have now been concluded, and it has been agreed that each party to the discussions would be reporting separately to the Council. I am therefore enclosing a copy of the report to the Council by Australia, and I would be grateful if this report could be circulated to Contracting Parties in order that it might be considered at the forthcoming Council meeting on 9 October.

Report to the Council by Australia on Bilateral
Discussions between the European Economic Commission
and Australia

1. Australia and the European Economic Commission agreed in April to hold bilateral discussions on the Article XVI:1 findings in the report of the GATT Panel on Australia's complaint concerning the Communities' system of export subsidies for sugar. The Commission had indicated that it had in mind certain views which might go some way towards meeting Australia's concern about the Communities' sugar regime.
2. These discussions were held in Brussels on 5-6 and 26 June. The Commission outlined its views on the way the Communities' sugar regime had operated over the last twelve months and its preliminary thinking on modifications to the operation of its regime. However, it stated that it would not be prepared to reach a conclusion on the Panel's findings under Article XVI:1 until it had an assurance that Australia would not pursue any action against the Communities in the GATT under Article XVI:3.
3. Australia noted that the Panel had unequivocally concluded that the Communities' system had caused serious prejudice to Australia and constituted a threat of prejudice in terms of Article XVI:1. It stated that the views informally outlined by the Commission would not remove the serious prejudice and the threat of prejudice that its system had been found to cause. In particular the Commission was not prepared to give any assurance as to the introduction of effective limits on the Communities' sugar production or on its system of export restitutions.
4. Australia advised the Commission that it was not prepared to forego its rights under Article XVI:3 as a precondition for continuing discussions on the Panel's findings under Article XVI:1.
5. Australia draws the attention of the Contracting Parties to the following points:

- (I) The conclusions of the GATT Panel that the Communities' system and its operation had indirectly caused serious prejudice to Australia and constituted a threat of prejudice to world sugar trade in terms of Article XVI:1;
 - (II) The obligation in Article XVI:1 that where a subsidy operates directly or indirectly to increase exports and in cases where it is determined that such subsidisation causes or threatens serious prejudice, 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 subsidisation;
 - (III) The request of the European Economic Commission at the GATT Council meeting of 26 March 1980 for more time to consider the draft decision circulated to the Contracting Parties in document C/W/341 on the conclusions in the Panel's report in relation to Article XVI:1; and
 - (IV) In subsequent bilateral discussions the European Economic Commission refused to continue to consult with Australia on the Panel's findings of serious prejudice and threat of prejudice in terms of Article XVI:1 unless Australia gave an assurance that it would not revert to Article XVI:3 aspects of this case in the GATT.
6. In the circumstances outlined above Australia requests the GATT Council to adopt at its next meeting the draft decision on the Panel's report circulated in Document C/W/341.