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EUROPEAN COMMUNITIES' ANSWERS TO AUSTRALIAN AND US QUESTIONS REGARDING ARTICLE XVI:1 NOTIFICATION

The following are the European Communities' answers to the written questions presented by Australia and the United States regarding the EC subsidy notification under Article XVI:1 (L/6111/Add.19).

Examination of Notifications under Article XVI:1

Reply by the European Communities to the questions submitted by Australia (SCM/W/165) concerning the Community's notification (L/6111/Add.19)

The document submitted by Australia (SCM/W/165) contains general comments as well as specific questions on the Community's notification (L/6111/Add.19).

As far as the general comments on the scope of the notification obligation under Article XVI:1 are concerned, the Community has already expressed its views on several occasions, including recently at the latest meeting of the Committee on Subsidies and Countervailing Measures in October 1988. In particular, it wishes to reiterate that in the absence of an agreed definition of the concept of "subsidy", notifications have an element of subjectivity as regards whether or not a practice constitutes a subsidy within the meaning of Article XVI:1 and should therefore be notified.

With regard to the specific questions raised by Australia, the Community wishes to state the following:

Coal

Decision 2064/86/ECSC defines the types of aid of member States in this sector for which advance approval can be given by the Commission. It lays down clear criteria for determining whether a particular measure constitutes aid as far as this Decision is concerned. In its evaluation, the Commission takes into consideration both direct aid and indirect measures.

In 1987, financial intervention (direct aid and indirect measures) linked to current production of coal amounted to ECU 5,071 million, or ECU 22.88 per ton of output:

	<u>ECU million</u>	<u>ECU/T</u>
Federal Republic of Germany	3,533.9	42.90
Belgium	362.5	82.95
Spain	437.7	22.78
France	427.1	31.07
Portugal	1.8	6.90
United Kingdom	308.4	3.03
Community	5,071.4	22.88

With regard to the figures published by the International Energy Agency, the Commission has already had occasion to stress, during discussions in IEA and in a letter addressed to the Organization's Executive Director, that the methodology used by IEA was not appropriate for determining levels of acceptability of State assistance to the coal sector in the Community.

Steel

Aid for research and development is not specific to the steel industry but is granted under general schemes.

Non-ferrous metals

- In November 1987 the Commission took a final negative decision concerning the DM 2 million loan granted in April 1985 by the Baden Wurttemberg State Government to a German producer of aluminium products.

- With regard to the three other programmes of specific aid concerning Italy (aluminium industry), United Kingdom (tin-mining industry) and France (zinc mining and smelting industry), the Commission concluded that these measures were entitled to the derogations provided for in Article 92:3(c) of the EEC Treaty (aid intended to facilitate the development of specific activities or economic regions, provided it does not alter trade conditions to an extent contrary to the common interest). Besides, they constitute internal assistance pursuing the objectives mentioned in Article 11 of the GATT Code.

Cereals

1. It is too early to assess the effect of the stabilizing mechanisms on production of cereals. For the record, these mechanisms (GMQ, additional co-responsibility levy, automatic and cumulative price reduction in case of repeated overrun of the GMQ) were introduced as from the 1988/1989 marketing year. The 1989 harvest will be the first for which producers will have felt the full effects of the stabilizers. It will only be with the sowings in the autumn of 1989 that an initial judgement concerning their effectiveness will be possible.

2. It is not correct to say that the Community's current production is in the order of 154 million tons. Such a volume was recorded in 1986 and 1987 only because of the climate conditions that existed during those harvests. For the record, production amounted to 173 million tons in 1984, 160 million tons in 1985, 154 million tons in 1986 and 1987 (weather problems) and 163.9 million tons in 1988.

In addition, the level of 160 million tons corresponds to the Community's cereal needs, plus imports of cereal substitutes. Furthermore, it should be recalled that according to the Commission's forecasts, cereal production by 1992 could amount to 186 million tons if measures were not taken. (See explanatory memorandum, price package 1988/89, volume 1, page 14.)

3. It is not correct to state that production can rise to 165 million tons without check and that penalties are slight. At that production level, the penalties are as follows:

- (a) The additional co-responsibility levy applies in full;
- (b) The intervention price for the next marketing year is automatically reduced by three per cent.

In addition, the "check" on production begins as soon as any overrun of the GMQ is observed.

4. With regard to the set-aside mechanism, it is likewise too early to reach an objective, definitive judgement; in view of the lags and difficulties in implementation, the mechanism will first be applied in the 1989/90 marketing year.

Dairy products

With ever-increasing world demand for dairy products, Community exports grew strongly in 1987. There were large increases for many dairy products (butter, butteroil, milk powders). On the other hand, condensed milk exports declined (see table below).

The strong growth of butter exports is almost entirely due to special sales of aged butter to certain destinations. This has brought about the virtual disappearance of Community butter stocks. Community imports of dairy products are declining.

It is clear that the four main lines of action adopted by the Community to reform the dairy sector, namely the introduction of quotas, a restrictive policy on official prices, overhauling of the public intervention system, and special sales of butter stocks, have helped to improve the dairy sector in the Community. It is equally clear that this improvement has had favourable effects on the world market, above all because of the total "cleaning out" of Community and world stocks. Since early 1987, both GATT minimum prices and real world market prices have been rising steeply.

	IMPORTS (EUR 12)			EXPORTS (EUR 12)		
	1986	1987 (provisional)	1988	1986	1987	1988 (provisional)
	(in thousands of tons)					
Butter	84.5	78.5	59.5	185.1	439.7	390
Butteroil	-	-	-	119.5 ¹	148.3 ¹	141.5 ¹
Skimmed milk powder	45.3 ²	1.6	4.1	267.1 ¹	389.8 ¹	532.4 ¹
Whole milk powder	2.0	2.5	0.7	478.0 ¹	572.5 ¹	515.9 ¹
Condensed milk	0.7	1.9	0	432.5 ¹	386.9	324.2
Cheese	107.6	109.2	86.5	369.7	406.4	348.0

¹Including food aid

²Extraordinary imports

Rice

The production subsidy for long-grain rice ("indica" variety) cannot have the effects suggested by Australia.

On the contrary, the measure leads to a reduction of rice exports by the Community, as has already been shown after the first year of application (the quantity sold by tender for export was limited to 10,000 tons, as against 69,000 tons during the 1987/88 marketing year). This is a result of the fact that the surplus medium-grain rice produced in the Community is more easily marketed within the EEC and in particular in the regions where indica rice has replaced medium-grain rice cultivation. The decline in the production of medium-grain rice leads directly to a corresponding reduction in the Community's exportable surplus.

Cotton sector

1. Protocol No. 4 concerning cotton annexed to the Act of Accession of Greece, as amended by Protocol No. 14 of the Act of Accession of Spain, established a system of aid to production of unginmed cotton in the Community.

Paragraph 5 of Protocol No. 4 stipulates that the Community's trade with third countries should not be affected and that no restriction on imports may be provided.

2. Since the introduction of the system of aid for cotton, no import restriction has been adopted either for unginning cotton or for cotton fibres. It should also be noted that unginning cotton is not an agricultural product within the meaning of the Treaty of Rome, as it does not appear in Annex II of that Treaty, and international trade as well as trade within the Community in unginning cotton is extremely limited, not to say insignificant, because of the nature of the product itself.

With regard to cotton fibres, again a non-agricultural product, EEC-12 imports amounted to 1,210,000 tons in 1987 as against 1,054,000 tons in 1986. The EEC has a large cotton industry (spinning), for which imported raw materials (cotton fibres, see attached table) account for about 80 per cent of supplies.

Sugar

With regard to the system of total self-financing of the sugar sector, established since the 1981/82 marketing year, concerning which the supposition is advanced that a deficit built up during the marketing years 1981/82 - 1985/86 was not entirely taken over by producers, it should be noted that the amount of ECU 400 million, the deficit accumulated during that period and to be repaid in five instalments, is based on the budgetary expenditures actually attributable to the marketing years in question taking into account exports actually made, changes underway in the manner of collecting the production levies, and the financial surplus carried forward from 1980/81. Thus it corresponds to the export costs for which producers are actually responsible in budgetary terms.

With regard to the setting of quotas, it must be stressed that the fact that in 1987 the Council extended quotas up to the 1990/91 marketing year has not prevented the Community from adjusting its sugar supply for export according to world market needs. Furthermore, with the introduction from the 1986/87 marketing year of the new financing system with annual coverage of actual export costs by additional levies during the same period, this self-financing system has become highly sensitive so that producers immediately feel the effects of the world market, which in their case take the form of a reduction in their price, especially for B beet, without any limitation. Thus, the support price level is significantly lowered by these measures. As the A quota already corresponds to consumption, the system of quotas and prices (taking the levies into account) is sufficiently flexible to be managed in harmony with the market.

It should also be noted that beet prices have been frozen since the 1984/85 marketing year, and sugar prices since 1986/87, and that the Commission has urged the Council to reduce these prices.

Reply by the Community to the questions submitted
by the United States on notifications of
subsidies under Article XVI:1 of the
General Agreement (SCM/W/162)

On a general level, the Community wishes to point out that in the absence of an agreed definition of the concept of "subsidy", a matter under discussion in the Uruguay Round, parties have some latitude in deciding whether an aid programme constitutes a subsidy within the meaning of Article XVI:1 of the General Agreement and therefore comes under the notification obligation. This element of subjectivity is also to be found in the United States' notification (L/6111/Add.17), which, for example, does not include any notification of programmes of aid to research and development.

Furthermore, the question of aid in the aviation sector is under discussion in the Committee on Trade in Civil Aircraft.