



AUSTRALIAN PERMANENT MISSION
TO THE WORLD TRADE ORGANISATION

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27 September, 2002

H. E. Mr Carlo Trojan
Ambassador
Permanent Delegation of the European Commission
Rue de Vermont 37-39
1202 GENEVA

Dear Ambassador,

**EUROPEAN COMMUNITIES – THE COMMON ORGANISATION
OF THE MARKET IN SUGAR AND ITS APPLICATION**

My authorities have instructed me to request consultations with the European Communities (EC) pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Article 19 of the *Agreement on Agriculture* and Articles 4 and 30 of the *Agreement on Subsidies and Countervailing Measures* (SCM Agreement) with respect to the EC's Common Organisation of the Market in sugar and its application and implementation. The measures in question include Council Regulation (EC) 1260/2001 *on the common organization of the markets in the sugar sector* of 30 June 2001¹ and measures taken thereunder as well as any amendments thereto or extensions thereof, and any related measures, including measures pre-dating the above Regulation, and their implementation.

The EC provides under the above measures export subsidies in excess of the export subsidy commitments that it has specified in Section II of Part IV of its Schedule of Concessions, in relation to "C sugar" and an amount of 1.6 million tons of sugar per year and possibly also sugar in incorporated products. The EC may also be paying a higher per unit subsidy on incorporated products than on the primary product. In addition, under the EC sugar regime refiners are paid a subsidy, in the form of the intervention price, for refining EC sugar which is not available to imported sugar, thus affording less favourable treatment to imported products.

The regulation and related instruments and measures taken thereunder appear to be inconsistent with the EC's obligations under the provisions of the Agreement on Agriculture, the SCM Agreement and GATT 1994. Specifically, the measures are considered to be inconsistent with the following provisions, at least:

- Articles 3.3, 8, 9.1, 10.1 and 11 of the Agreement on Agriculture.
- Articles 3.1 and 3.2 of the SCM Agreement
- Article III:4 and Article XVI of GATT 1994

¹ Published in the Official Journal of the European Communities on 30 June 2001 (L 178/1-45)

Australia reserves the right to raise other claims and factual and legal issues during the consultations.

As required under Article 4.2 of the SCM Agreement a Statement of Available Evidence is attached.

I look forward to receiving your reply and to fixing a mutually acceptable date for consultations.

Yours sincerely,

David Spencer
Ambassador

cc: H.E. Mr Carlos Perez Del Castillo
Chairman of the Dispute Settlement Body

H.E. Mr M. Supperamaniam
Chairman of the Council for Trade in Goods

Dr Magdi Farahat
Chairman of the Committee on Agriculture

Statement of Available Evidence in Accordance with Article 4.2 of the SCM Agreement

Section II of Part IV of Schedule CXL-European Communities

Council Regulation (EC) No. 1260/2001 of 19 June 2001 on the European Communities' common organization of the markets in the sugar sector, published in the Official Journal of the European Communities on 30 June 2001 (L 178/1-45)

Commission Regulations adopted pursuant to Council Regulation (EC) No. 1260/2001 of 19 June 2001

Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex 1 to the Treaty, and the criteria for fixing the amount of such refunds (L177/1-48)

Agricultural notifications concerning export subsidy commitments (ES:1 to ES:3) submitted by the EC to the WTO for marketing years 1995/1996 through 2000/2001: G/AG/N/EEC/5, 11, 20, 23, 32 and 36.

Agricultural notifications concerning domestic support commitments (DS:1 and supporting tables) submitted by the EC to the WTO for marketing years 1995/1996 through 1998/1999: G/AG/N/EEC/12, 16, 26 and 30.

EC Court of Auditors, Special Report No 20/2000 concerning the management of the common organisation of the market for sugar, together with the Commission's replies.

Netherlands Economic Institute (NEI) report entitled Evaluation of the Common Organisation of the Markets in the Sugar Sector

GATT Panel Report: European Communities – Refunds on Exports of Sugar, 6 November 1979 (L/4833)

GATT Panel Report: European Communities – Refunds on Exports of Sugar – Complaint by Brazil, 10 November 1980 (L/5011)

GATT Working Party Report: European Communities Refunds on Exports of Sugar, Article XVI:1 Discussions, Report to the Council adopted on 10 March 1981 (L/5113)

Organisation for Economic Co-operation and Development (OECD) report entitled Background Information on Selected Policy Issues in the Sugar Sector
AGR/CA/APM(2001)32/FINAL 7 JUNE 2002