

**EUROPEAN COMMUNITIES – EXPORT SUBSIDIES ON SUGAR**

Request for Consultations by Thailand

The following communication, dated 14 March 2003, from the Permanent Mission of Thailand to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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Upon instruction from the Royal Thai Government, I have the honour to request consultations with the European Communities (the "EC") pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU"), Article XXIII of the General Agreement on Tariffs and Trade 1994 (the "GATT"), Article 19 of the Agreement on Agriculture, and Articles 4 and 30 of the Agreement on Subsidies and Countervailing Measures (the "SCM Agreement") with respect to certain subsidies provided by the EC in the sugar sector.

The measures on which Thailand seeks consultations are the subsidies for sugar and sugar-containing products, including cane or beet sugar and chemically pure sucrose in solid form, molasses resulting from the extraction or refining of sugar, isoglucose, insulin syrup and the other products listed in Article 1 of 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 (L178/1-45). The above products will be referred to below as "sugar". The subsidies for sugar are accorded under the above Council Regulation and under other related EC legislation, regulations, administrative policies and other instruments applicable to sugar and sugar-containing products, including the rules adopted pursuant to the procedure referred to in Article 42(2) of Council Regulation (EC) No. 1260/2001 of 19 June 2001, and any other provision related thereto. These various legal instruments will be referred to below as the "EC sugar regime".

The principal concerns of Thailand are the following:

- Under the EC sugar regime, only sugar manufactured from beet or cane harvested in the EC but not sugar imported into EC benefits from a guaranteed high intervention price. The EC sugar regime therefore accords imported sugar treatment less favourable than that accorded to domestic sugar and provides for subsidies contingent upon the use of domestic over imported goods.
- Under the EC sugar regime, the EC accords export subsidies above its reduction commitment levels specified in Section II of Part IV of its Schedule of Concessions. Under the EC sugar regime, sugar that is produced within certain production quotas ("A" and "B" quotas) is

guaranteed a high intervention price. Sugar produced in excess of these quotas, referred to as "C sugar", may not be sold internally in the year in which it is produced: it must be exported or carried over to fulfil the following year's production quotas. By virtue of the EC sugar regime, exporters of C sugar are able to export such sugar at prices below their cost of production.

- In addition to the sugar produced in excess of production quotas, sugar of an amount of approximately 1.6 million tons per year benefits from export subsidies. These export subsidies, which are referred to in the EC Council Regulation (EC) No. 1260/2001 as "export refunds", cover the difference between the world market price and the high prices in the Community for the products in question, thus making it possible for those products to be exported.

Thailand considers that the above subsidies are inconsistent with the EC's obligations under Article III:4 of the GATT 1994, Articles 3.1(a), 3.1(b) and 3.2 of the SCM Agreement and Articles 3.3, 8, 9:1 and 10.1 of the Agreement on Agriculture. Thailand reserves its right to raise other factual and legal issues during the course of the consultations.

In accordance with Article 4.2 of the SCM Agreement, Thailand attaches a "Statement of Available Evidence" to this request.

I look forward to receiving your reply to this request and to set a mutually acceptable date to hold consultations.

**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 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)

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

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

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

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