# THE EUROPEAN SUGAR REGIME NEW LEGISLATION AND WTO RULES [1]

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## Resum

El 20 de febrer de 2006 es va aprovar el Reglament núm. 318/2006 del Consell que reforma l'Organització Comuna de Mercats del sucre. L'article analitza els canvis introduïts en el nou règim europeu del sucre i valora la seva adequació a les normes i demandes internacionals de liberalització del comerç agrícola. Es conclou que la reforma ha estat el mínim necessari per fer front als reptes internacionals: la recent resolució de l'Òrgan de Solució de Diferències de l'Organització Mundial del Comerç i les demandes de liberalització plantejades en el marc de la Ronda de Doha.

JEL: F13, K33, Q17, Q18

## Resumen

El 20 de febrero de 2006 se aprobó el Reglamento nº 318/2006 del Consejo que reforma la Organización Común de Mercados del azúcar. El artículo analiza los cambios introducidos en el nuevo régimen europeo del azúcar y valora su adecuación a las normas y demandas internacionales de liberalización del comercio agrícola. Se concluye que la reforma ha sido el mínimo necesario para hacer frente a los retos internacionales: la reciente resolución del Órgano de Solución de Diferencias de la Organización Mundial del Comercio y las demandas de liberalización planteadas en el marco de la Ronda de Doha.

## Abstract

The WTO rules have had a direct influence upon the 2006 reform of the European Common Market Sugar Organisation. The pre-2006 sugar CMO was not in a position to successfully face neither the recent Resolution of the World Trade Organisation's Dispute Settlement Body and the liberalisation demands made in the Doha Round context. Through a comparative analysis of the European sugar regime, before and after the reform, this paper

argues that the 2006 changes are the minimum improvements necessary to face present international challenges.

## I. Introduction

On 20 February 2006, the Council of Agriculture Ministers of the European Union (EU) passed the first large-scale reform of the Common Market Organisation (CMO) for sugar. With this reform, the new CMO for sugar is governed by EU Council Regulation No 318/2006[2] for the duration of the period 2006/07-2009/10. The new European sugar regime must face up to both current and potential international demands for liberalisation in the agricultural sector.

This paper examines the international dimensions of the reform of the CMO for sugar. It analyses the content of the new sugar regime and compares it with the previous system. It then assesses the extent to which the reform meets international calls for liberalisation. To do so, the paper is organised in five sections, with the second section setting out the current world demands for liberalisation. The third section tackles all the instruments used for intervention and protection of the EU sugar market in the trade years prior to the reform. The fourth section then examines the way that the reform alters the instruments, and the final section engages in a critical analysis of the extent to which the sugar regime—both before and after the reform—offers an adequate response to the current and any future environment of liberalisation.

## II. International calls for liberalisation

Previously, the CMO for sugar had to adapt to the Agriculture Agreement negotiated in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). In order to comply with the provisions of Council Regulation

(EC) No 1101/95[3], Council Regulation (EC) No 2038/1999[4] turned variable levies into fixed tariffs and spelt out the conditions for internal market access and export subsidies. The resulting CMO, however, was left out of the reforms of the Common Agricultural Policy (CAP), even the reforms of 2003 and 2004 undertaken with an eye on the trade negotiations of the Doha Round.

Currently, the CMO for sugar must meet new commitments within the framework of the World Trade Organisation (WTO). These commitments include the ruling against the EU's system of sugar export subsidies, on the part of the WTO's Dispute Settlement Body, as well as the multilateral negotiations in progress in the Doha Round.

On 15 October 2004, a WTO special panel condemned[5] EU sugar export subsidies for failing to comply with Articles 3.3[6] and 8[7] of the GATT's Agriculture Agreement, and the condemnation was confirmed by the WTO's Appellate Body[8] on 28 April 2005. That is, the panel confirmed that the EU had been exceeding the monetary limit on sugar export subsidies as well as the maximum yearly quantity of allowable subsidised sugar since 1995. The Dispute Settlement Body accepted the reports of the panel and the Appellate Body on 19 May 2005. From that point, the case went to binding arbitrage in the WTO and the outcome stipulated that the reasonable deadline would be 22 May 2006[9] for the EU to comply with the Dispute Settlement Body's trade measure, placing a limit on the EU's ability to export subsidised sugar and imposing a ban on the export of unsubsidised sugar.

In addition, the new CMO for sugar must face up to the agricultural sector's advances in liberalisation, made in the context of current multilateral negotiations. The negotiations have proven quite difficult in light of the distinct positions defended by the EU, the United States and the group of developing

countries (G-20). Nevertheless, agreement was reached on the new work programme of the Doha Round on 1 August 2004, establishing a framework for agricultural negotiations, and there have been concrete proposals on the table since October 2006. Table 1 offers a high-level summary of the demands on the table, which take forward the liberalisation agreed in the Uruguay Round of GATT on each and every one of the three pillars of the Agriculture Agreement: domestic support, market access and export subsidies.

| **Table 1: Summary of Demands on the Agricultural Sector Made in the Doha Round** | |
|---|---|
| **Domestic Support** | The amber box is to be reduced by between 70% and 80%.<br>The blue box is to be limited to a maximum of between 2.5 and 5% of total production value. |
| **Tariffs** | Average reduction of between 50% and 75%. The highest reductions are to be applied to products with the highest tariffs.<br>Sensitive products are not to exceed between 1% and 8% of the tariff lines. |
| **Export Subsidies** | To be eliminated by 2013, but the greatest percentage of reduction must occur in 2010. |
| Source: MILLET, M. and P. GARCIA-DURAN, «La PAC face aux défis | |

du cycle de Doha», *Revue du Marché Commun et de l'Union Européenne*, No 494, 2006, pp. 16-23.

In terms of domestic support, a substantial reduction is required in aid that most negatively affects international trade: amber-box aid and blue-box aid. The Agriculture Agreement of the Uruguay Round categorises three kinds of support in these so-called "boxes". Allowable aid falls in the "green box" and includes public spending on general services, natural disasters, regional and environmental development programmes, research and development, and income support to producers that is not linked to production decisions. Support to be banned falls in the "amber box" and includes price and agricultural production supports. Amber-box supports are set by the Aggregate Measure of Support (AMS)[10]. In addition, thanks to the Blair House Accord reached between the United States and the EU in December 1992, direct payments to producers based on historical yields were included in what is known as the blue box[11], but were safeguarded by an acreage and livestock reduction programme.

As for market access, sizeable tariff reductions are also demanded. To ensure that the reductions are substantial at all tariff levels, the highest tariffs are to be lowered by the greatest proportion and "temporary" tariff increases will be not permitted through use of the special safeguard provisions[12]. All the members of the CMO will, however, be able to designate a number of tariff lines as sensitive products, which will be subject to a lower reduction in tariffs.

Export subsidies, according to the agreement reached at the Sixth Ministerial Conference in Hong Kong in December 2005, are to be completely

eliminated. They are to be phased out between 2010 and 2013, with the proviso that the highest percentage of reduction must occur in 2010.

## III. The CMO for sugar prior to the new reform

The first regulatory scheme came with Council Regulation (EEC) No 1009/67[13], which had effect throughout the trade years 1968/69 to 1974/75. Then Council Regulation (EEC) No 3330/74[14] came into force for the period 1975/76–1980/81. Council Regulation (EC) No 1785/81[15] covered the years from 1981/82 to 2000/01 and was supplemented by Council Regulation No 2038/1999[16] for 1999/2000 and 2000/01. Lastly, Council Regulation (EC) No 1260/2001[17] came into force from 2001/02 to 2005/06.

As the fifth enlargement of the EU did not occur until 1 May 2004, this section of the paper takes the Council Regulation of 2001 as its legal reference, setting out the principal instruments of intervention and protection[18] established in it for the previous CMO for sugar for the EU-15. Internal EU intervention took two main forms: a system of production quotas and a guaranteed price scheme. With regard to trade with non-EU countries, the main instruments of protection were also two in number: import restrictions (with the exception of preferred treatment given to certain trading nations) and export subsidies (for a given quantity of sugar).

### III.A- Quota System

All EU-15 members are sugar-producing states, except for Luxembourg. They produce white, refined sugar (which has a standard saccharide content of 99.5%) instead of raw, unrefined sugar (which has a lower standard saccharide content), because European sugar processors use vertical integration to lower

the costs of transport, storage and reheating and to minimise potential waste. Additionally, all the white sugar obtained within the EU comes from sugar beet, with the exception of sugar cane produced in southern Spain and in a number of ultra-peripheral regions of the EU[19]. Broadly speaking, the products governed under the CMO for sugar include both the plant sources of sugar (sugar beet and sugar cane) and the products of the initial refining stage (sugar, isoglucose and inuline syrup).

While the cited Council Regulation of 2001 was in operation, sugar production was controlled through A and B quotas. The regulation set quota shares for all EU members, who then distributed them among the producer companies located in their territory that enjoyed quotas during the trade year 2000/01[20]. Thus, for each benefiting company, two types of sugar quota were available: A and B[21]. Any amount in excess of the sum total of quotas A and B for a company was categorised as C sugar[22] and excluded from the quota system. In no case did the classification depend on the physical characteristics of the sugar.

The difference between quotas for A and B sugar lay in the levies[23] applied to their respective production. In all other respects, the quotas benefited from the same price support and the same purchase guarantee, i.e. the right to have sugar bought by national intervention boards[24]. Similarly, they attracted the same export subsidies to encourage the sale of quota sugar on world markets. By contrast, C sugar received no guarantee of price or sale, either inside or outside the European market. In fact, it could not be sold in the EU market and had to be exported without subsidy and in a natural state by 1 January of the following trade year[25].

Table 2 sets out the quotas for A and B sugar for the EU-15 for the period from 2001/02 to 2005/06 as set by the Regulation of 2001. Quota A rose to 11,894,223 mt (82% of the total) and was set based on the historical production levels of each country at the inception of the CMO for sugar. Quota B was 2,587,919 mt (the remaining 18%) and it was established to benefit countries with comparative advantage in the production of beet sugar. As a result, sugar-exporting members, such as France and Germany, received a relatively higher proportion of B quota than A quota. Collectively, France and Germany received the highest quota amounts (50% of the total), followed by Italy and the United Kingdom (with 10% and 8%, respectively)[26].

| **Table 2: Breakdown of Baseline Sugar Quantities for Member States Established in the Regulation for 2001/02 - 2005/06** | | |
|---|---|---|
| (In metric tonnes of white sugar) | | |
| | | |
| **Countries** | **A Sugar** | **B Sugar** |
| AUSTRIA | 314,029 | 73,298 |
| BELGIUM[(1)] | 674,906 | 144,906 |
| DENMARK | 325,000 | 95,746 |
| FINLAND | 132,806 | 13,280 |
| FRANCE[(2)] | 2,970,359 | 798,632 |
| GERMANY | 2,612,913 | 803,982 |
| GREECE | 288,638 | 28,864 |
| IRELAND | 181,145 | 18,115 |
| ITALY | 1,310,904 | 246,539 |
| THE NETHERLANDS | 684,112 | 180,447 |
| PORTUGAL[(3)] | 72,428 | 7,243 |
| SPAIN | 957,082 | 39,879 |
| SWEDEN | 334,784 | 33,478 |
| UNITED KINGDOM | 1,035,115 | 103,512 |
| *TOTAL* | *11,894,223* | *2,587,919* |
| | | |
| [(1)] Belgo-Luxembourg Economic Union. | | |
| [(2)] Includes A and B sugar (463,872 mt and 46,373 mt, respectively) produced in the French overseas departments. | | |
| [(3)] Includes A and B sugar (9,048 mt and 905 mt, respectively) produced in the Azores. | | |
| | | |
| Source: Council Regulation (EC) No 1260/2001 (Art. 11.2). | | |

Sugar quotas were lowered in the years 2002/03, 2003/04 and 2005/06 in the interests of complying with export subsidy reduction commitments adopted in the Uruguay Round of the GATT[27]. Council Regulation (EC) No 1101/95 established that, when an exportable surplus[28] in excess of the maximum

quantity attracting subsidy was envisaged by 1 October in a given trade year, the quotas for A and B sugar would be cut[29].

Accordingly, the guaranteed quotas for the trade years 2002/03 and 2003/04 were reduced by 826,988 mt and 206,645 mt, respectively[30]. The cutbacks in sugar production for the year 2002/03 were announced after the sugar beet planting season, so they had no impact on production, except to increase the volume of C sugar. A large part of the increase in C sugar was carried over[31] to the following year, with the result that there was a lower harvest that year. Despite that fact, the year 2003/04 saw another cut in the quotas.

The overall reduction for the year 2005/06 was 1,805,961 mt[32]. The bumper sugar beet harvest of 2005 and the requirement to limit export subsidies from 23 May 2006, coming out of the panel and CMO Appellate Body rulings[33], caused another reduction in guaranteed production levels in order to avoid excessive production surpluses. Based on the WTO settlement, C sugar exports were banned and the European Commission suspended the application process for C sugar export certificates, effective 23 May 2006[34].

To make the quota system more flexible, two instruments were employed. Firstly, a mechanism to allow companies to transfer quotas allowed member states to transfer volumes within A and B quotas among companies located in their territory, taking into account the interests of the industry and especially sugar beet and sugar cane producers[35]. The transfers took place on the condition that each producer's reduction in quotas A and B not exceed 10% of its original quota allocation. Once the volumes of A and B quotas to be transferred had been determined, the state reallocated them to one or various companies located in their territory, whether or not they had previously received quotas.

The second flexibility measure fell to the companies. They were given the opportunity to carry over given volumes of sugar to the following trade year, to be booked on account of future production. This specifically allowed each company to carry over all or part of the sugar which would have become C sugar to the subsequent year[36]. Carry-over sugar had to be stored for a period of one year[37].

## III.B- Price Regime

The quota system for A and B sugar was enforced to control EU production in the face of internal price guarantees pegged far in excess of the reigning international market price. In fact, from the mid-eighties to the trade year 2005/06, EU prices were two or three times higher than world prices[38]. Acting on instructions from the European Commission, the Council of Agriculture Ministers set four institutional prices for each trade year. In this sub-section, each of these guaranteed prices is briefly described. Since the trade year 1984/85[39], all of them have remained frozen.

The first step was to fix a target price and an intervention price for white sugar. The target price reflected the desired level of the sugar market price under normal conditions or, in other words, the optimal price that European sugar growers could receive, and it was set at 665 euros/mt. The intervention price functioned as a minimum market price and was applied to white sugar of a fair average quality, finished but unpackaged, loaded onto any transport of the buyer's choice. It was the price at which the EC (using the resources of the European Agricultural Guarantee and Guidance Fund (EAGGF-G)) was required to buy sugar through the national intervention boards and it was set at 631.9 euros/mt[40].

Each member state set up an intervention board, which was required to purchase any quota sugar at the intervention price throughout the entire trade year, whether produced from sugar beet or sugar cane, which was grown within the EU[41]. Previously, the seller and the intervention board had to enter into a storage contract. After purchase, the board had to sell the sugar at a price superior to the intervention price, except when earmarked for animal feed or export[42].

From the trade year 1981/82 onwards, the national intervention boards carried out very few buy/sell operations because the sugar refineries opted to export their surpluses to non-EU countries[43]. In recent years, however, the boards' interventions have grown in importance because of high surplus levels and limitations on subsidised exports. As a result, in August 2005, the intervention boards of Belgium, France and Sweden together put on the market 247,378 mt of product purchased by them before 31 March 2005[44]. In October 2005, the intervention boards of Belgium, France, Hungary, Italy and Poland sold a total of 248,192 mt on the internal EU market, which they had purchased between 1 April and 30 June 2005[45]. Recently, in January and May 2006, bidding was opened for the internal EU resale of sugar held by the intervention boards of Belgium, the Czech Republic, France, Ireland, Italy, Hungry, Poland, Slovakia, Spain and Sweden[46]. In the January bidding, sales of intervention sugar to the internal EU market amounted to 1,009,124 mt and, in May, the total sales volume of board-held sugar reached 1,493,137 mt.

The intervention price for raw cane sugar was calculated based on the intervention price for white sugar, taking into account certain transport and refining costs. This price then served as a reference price for preferential imports from sugar-producing nations principally in Africa, the Caribbean and

the Pacific (ACP). During the period in question, it was set at 523.7 euros/mt for raw sugar[47].

Lastly, institutional prices were determined for sugar beet. Taking a given delivery period and fair average quality, the base price was set at 47.67 euros/mt of sugar beet[48]. Processors then had to pay sugar beet growers a minimum price reached by subtracting from the base price the portion affected by the production levy rates[49]. The minimum price for sugar beet transformed into A quota sugar was equal to the base price reduced by 2% of the intervention price for white sugar. The minimum price for sugar beet turned into B quota sugar was, in principle, the base price reduced by 32% of the intervention price for white sugar. Where necessary, however, cuts of as much as 37.5% were possible. The reigning minimum price of A sugar beet in the EU was 46.72 euros/mt of sugar beet, while the one for B sugar beet was 32.42 euros/mt[50].

A summary of the linkage between the intervention price for white sugar and the minimum price for sugar beet is set out in Table 3.

| **Table 3: Relationship between the Intervention Price for White Sugar and the Minimum Price of Sugar Beet** | |
|---|---|
| INTERVENTION PRICE FOR WHITE SUGAR (expressed in euros/mt of white sugar) | **631.9** |
| (-) Transport costs of delivering sugar beet to refineries | 44.1 |
| (-) Refining costs | 243.6 |
| (+) Income from sales of treacle (a sugar-refining by-product) | 22.5 |
| BASE PRICE OF SUGAR BEET (expressed in euros/mt of white-sugar equivalent) | **366.7** |
| BASE PRICE OF SUGAR BEET (expressed in euros/mt of sugar beet. One metric tonne of standard-quality sugar beet yields 130 kg of white sugar) | **47.67** |
| MINIMUM PRICE OF SUGAR BEET CONVERTED INTO A SUGAR (expressed in euros/mt of sugar beet) | **46.72** |
| MINIMUM PRICE OF SUGAR BEET CONVERTED INTO B SUGAR (expressed in euros/mt of sugar beet) | **32.42** |

### III.C- Trade Flows with Non-EU Countries

The EU's import/export arrangements for sugar grew out of internal surpluses and the sizeable gap between internal and external prices.

All EU sugar imports and exports were formally required to present a certificate which made it possible to carry out constant monitoring of EU trade exchanges with non-EU countries. The certificate was provided to any company that requested it, regardless of the company's place of establishment within the Community, because the document was valid throughout the entire EU. In any case, its issuance was contingent on setting up a surety bond as a guarantee of

operation throughout the period of the certificate's validity. Except in cases of *force majeure*, the bond could be lost fully or in part, if the operation were not carried out or it were only carried out in part[51].

Sugar import duties fell under the regime of common customs tariffs[52]. One outcome of the GATT Agriculture Agreement of 1995 was to replace variable import levies and other import measures with a specific tariff (euros/mt). In addition, the EC was required to step down the new tariff by 20%[53] over the six years that it was in force (1995-2001). To do so, the initial value of the applicable tariff (524 euros/mt for white sugar) was calculated as the difference between average European and world sugar prices between 1986 and 1988. Table 4 shows all of these changes.

**Table 4: Tariff Reduction Commitments on Raw and White Sugar Imports Reached in the Uruguay Round of GATT.**

| | Base period (1986-88) | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | Variation 2000/01 – base period | Variation 2000/01-1995/96 |
|---|---|---|---|---|---|---|---|---|---|
| White sugar (euros/mt) | 524 | 507 | 490 | 473 | 456 | 439 | 419 | -20% | -17% |
| Raw sugar (euros/mt) | 424 | 410 | 396 | 382 | 368 | 354 | 339 | -20% | -17% |

Source: WTO, List of EU commitments on tariff reduction.

An additional customs duty on sugar was allowed, however, in order to counteract the negative effects that imports might generate. To do so, it was necessary to meet the conditions required under the special safeguard provisions in Article 5 of the Agriculture Agreement. According to the provisions, an additional duty can be introduced when the world price is lower than 90% of the triggering price declared to the WTO by the EU. The trigger price for white sugar was specified at 531 euros/mt, and the trigger price for raw sugar was set at 418 euros/mt, which was its average price for the base period 1986-88.

The special safeguard provisions were applied constantly during 1995/96, because of the relatively low world market price. In recent trade years, total protection—taken as both the fixed tariff and the additional duty—has been in the neighbourhood of 500 euros/mt of white sugar[54]. As a result, the extent of tariff protection remained practically unchanged with respect to the base period (see Table 4 again) and non-preferential imports of sugar were insignificant.

In reality, the vast majority of European sugar imports received preferential terms, based on import quotas. The quota concerning raw sugar was fixed on the basis of the "maximum supply needs" (MSN) of European refineries[55], amounting to 1,776,766 mt[56] for each year[57]. In keeping with the schedule established in Council Regulation No 1101/95, refiners were to take on supplies of sugar cane as follows: from the French overseas departments, roughly 200,000 mt; from sugar-exporting ACP countries[58], approximately 1,300,000 mt, under the conditions of Protocol No 3[59]; and from India, 10,000 mt[60], under the EU-India agreement[61],). In addition, the refineries would receive supplies of "CXL concession"[62] sugar (85,463 mt) whose countries of origin were, principally, Cuba (58,969 mt) and Brazil (23,930 mt), and sugar from less developed countries under the trade agreement known as "Everything

But Arms"[63] (approximately 100,000 mt). Lastly, the Special Preferential Sugar Agreement[64] provided for a further volume of sugar from ACP nations (to cover MSNs).

As for white sugar, the EU took preferential imports from the Balkan states (Albania, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo and the Former Yugoslav Republic of Macedonia (FYRM). These imports were part of or tied to the EU process of stabilisation and association. They were based on the exceptional trade measures (elimination of quantitative limits and exemption of customs duties) in Council Regulation (EC) No 2007/2000[65]. This explains the fact that European imports of white sugar from the Balkan states went from being negligible to over 300,000 mt in the trade year 2002/03[66].

Known as the "Balkans Initiative", the trade agreement was very attractive for the above countries because of the large price gap between the two markets. As a result, the various national authorities supported the development of sugar production, especially in Croatia, Serbia and Montenegro. At the same time, EU sugar exports to the Balkans rose sharply, creating a sugar "carousel" driven by export subsidies between the two sets of nations.

Finally, an overall quota free of customs duties was set for EU sugar imports from the Balkans for the trade year 2005/06. The quota amounted to 193,000 mt: Albania, 1,000 mt; Bosnia and Herzegovina, 12,000 mt; and Serbia, Montenegro and Kosovo, 180,000 mt[67]. Along the same lines, the European Commission created an annual tariff-free quota of 7,000 mt for sugar from the FYRM[68].

Regarding exports, surpluses of quota sugar produced in the European market were subsidised for export to external markets. The portion of A and B

quota production not consumed within the EU's internal market received export subsidies, as did a quantity equivalent to the preferential sugar imports from the ACP nations and India[69]. The subsidy was to compensate for the gap between world market prices and internal market prices.

The subsidy was uniform across the EU. It could, however be varied depending on the destination, when deemed necessary because of the state of world markets or specific features of a given market[70]. The subsidy was granted both for unprocessed (white or raw) sugar and for the sugar contained in certain transformed products[71]. The EU's export subsidy for raw sugar was not to exceed the subsidy granted to white sugar exports[72].

The export subsidy commitments made in the GATT Agriculture Agreement called for the sugar export subsidies to be stepped down by 21% in volume and 36% in value over six years, taking the annual average between 1986 and 1990 as the period of reference. Table 5 sets out the detail. Thus, starting with the trade year 2000/01, the maximum amount of sugar that would be subsidised was 1,273,500 mt at a value of 499.1 million euros. The limits had an effect both on unprocessed sugar exports (Chapter 17 of Annex 1 of the European Community Treaty (ECT)) and on the exports of transformed fruit, pulses and vegetables containing sugar (Chapter 20 of Annex I of the ECT)[73].

**Table 5: Commitments to Reduce Subsidised Sugar Exports Agreed in the Uruguay Round of GATT.**

| | Base period (1986-90) | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | Variation on 2000/01 – base period | Variation on 2000/01-1995/96 |
|---|---|---|---|---|---|---|---|---|---|
| Maximum Volume (thousands of mt) | 1,612.0 | 1,555.6 | 1,499.2 | 1,442.7 | 1,386.3 | 1,329.9 | 1,273.5 | -21% | -18% |
| Maximum Value (millions of euros) | 779,9 | 733.1 | 686.6 | 639.5 | 592.7 | 549.5 | 499.1 | -36% | -32% |

Course: WTO, Notifications G/AG/N/EEC/51, G/AG/N/EEC/11, G/AG/N/EEC/20/Rev.1, G/AG/N/EEC/23, G/AG/N/EEC/32 y G/AG/N/EEC/36.

Surprisingly, the commitment to reduce subsidies had no effect on European exports of sugar that had been previously imported from ACP countries and India. The EU excluded ACP and Indian sugar from its commitments to cut subsidies, because EU trade relations with ACP nations and India in the case of sugar were seen as a European instrument to support their ongoing development. Thus, the calculation of export subsidies in the reduction agreement excluded sugar from India as well as total ACP sugar, based on the Protocol and the Special Sugar Preferential Agreement. Details of the reduction agreement are set out in Table 5.

The calculation of export subsidies took the representative intervention price across the Community as its base. From this figure, the world market price for sugar was subtracted and transport costs required to sell sugar on the world market were added[74]. The cost of export subsidies for sugar produced within the EU was met by sugar processors, sugar beet growers and, to a lesser extent, sugar cane growers. The EU budget, however, financed the cost of export subsidies on ACP/Indian equivalent sugar.

The sugar export subsidy mechanism within the EU rested on the principle of self-financing or budget neutrality, meaning that the subsidies in question had to be funded directly by production levies paid by the industry and growers. The base levy on all production of A and B sugar could not exceed 2% of the intervention price for white sugar[75]. At the same time, an additional levy could be imposed on B sugar production only, at a rate of as much as 37.5% of the white sugar intervention price. The applicable rate depended on the total cost of export subsidies[76]. Collectively, all production levies were met by sugar manufacturers, but sugar beet and sugar cane growers bore a portion of the cost through the discounted base price of sugar beet. In practice, 42% of the levies fell on manufacturers and 58% on growers[77].

Sugar refined within the EC that had originally come from ACP nations or India was not subject to any self-financing mechanism. As a result, export subsidies on white sugar from these nations were funded by the Community budget through the EAGGF-G, at a cost of roughly 800 million euros a year[78].

## IV. The new CMO for sugar

In 2003, the European Commission prepared a working paper[79] and presented a report[80] to the Council and the European Parliament. In these documents, it set out options for the possible overhaul of the CMO for sugar. Subsequently, on 14 July 2004, the Commission announced its plan for reform of the sugar regime[81], which centred on domestic price cuts and lower production quotas.

There was, however, an outcry from groups within the EU. While awaiting the WTO's final ruling on European export subsidies[82], the EU's Council of Agriculture Ministers announced on 22 November 2004 that the reform would not go into force during the trade year 2005/06 and that the European Commission would put forward a new proposal. The trade dispute was settled in April 2005 and the Commission proposed a new reform of the CMO for sugar[83] on 22 June 2005, which was passed by the Council on 24 November 2005[84]. After the European Parliament ruling was issued on 19 January 2006, the Council proceeded to final approval of the Regulations reforming the sugar sector on 20 February 2006[85].

Council Regulation (EC) No 318/2006 establishes the new CMO for sugar for the years 2006/07 to 2009/10. However, it also determines the new system of quotas, prices and market management to be applied through the end of the year 2014/15. The next section analyses the main ways that the new regulatory scheme changes the intervention and protection instruments of the CMO for sugar.

### IV.A- Quota System

Most of the new member states of the EU-25 also produce white sugar from sugar beet. Only Cyprus, Estonia and Malta are not sugar producers, but they are supplied mainly by other EU members.

The quota system is not substantially affected by the new regulations. Member states still receive an initial quota allocation, which has not been cut. They then distribute the allocation among the sugar industry in their own territories. The system maintains its flexibility through the quota transfer and carry-over mechanisms[86]. The main change runs deeper: the classification of A and B quotas and C sugar is replaced by a system based on “quota sugar”, “industrial sugar” and “surplus sugar”.

“Quota sugar” takes in all the guaranteed quantities of sugar. In principle, this is the sum total of, firstly, quotas A and B as established in the Regulation of 2001 by the EU-15 nations and, secondly, the quotas allocated to new EU member states after the fifth enlargement, as stipulated in the respective acts of accession[87]. The total is 17,440,537 mt of sugar, but it can be topped up with an additional maximum quota of 1,100,000 mt among sugar-producing member states in the year 2005/0[88], so as to ease the transition from the previous quota system to the current one. In addition, the year 2006/07 was 15 months long[89], so there was a one-off increase in the quotas for Italy (121,187 mt), Portugal (52,593 mt) and Spain (324,000 mt) in the period[90]. As shown in Table 6, France, Germany and Poland are the nations with the highest allocations (collectively, 52% of the total), followed by Italy and the United Kingdom (8% and 7%, respectively).

**Table 6: Distribution of Sugar Quotas Among EU-25 Member States as Established in the Regulation for the Trade Years 2006/07 - 2009/10.**

(In metric tonnes of white sugar)

| Countries | Sugar | Additional Quota |
|---|---:|---:|
| AUSTRIA | 387,326 | 18,486 |
| BELGIUM[(1)] | 819,812 | 62,489 |
| CZECH REPUBLIC | 454,862 | 20,070 |
| DENMARK | 420,746 | 31,720 |
| FINLAND | 146,087 | 10,000 |
| FRANCE[(2)] | 3,768,992 | 351,695 |
| GERMANY | 3,416,896 | 238,560 |
| GREECE | 317,502 | 10,000 |
| HUNGARY | 401,684 | 10,000 |
| IRELAND | 199,260 | 10,000 |
| ITALY | 1,557,443 | 10,000 |
| LATVIA | 66,505 | 10,000 |
| LITHUANIA | 103,010 | 8,985 |
| THE NETHERLANDS | 864,560 | 66,875 |
| POLAND | 1,671,926 | 100,551 |
| PORTUGAL[(3)] | 79,671 | 10,000 |
| SLOVAKIA | 207,432 | 10,000 |
| SLOVENIA | 52,973 | 10,000 |
| SPAIN | 996,961 | 10,000 |
| SWEDEN | 368,262 | 17,722 |
| UNITED KINGDOM | 1,138,627 | 82,847 |
| *TOTAL* | *17,440,537* | *1,100,000* |

[(1)] Belgo-Luxembourg Economic Union.

[(2)] Includes 480,245 mt of sugar produced in the French overseas departments.

[(3)] Includes 9,953 mt of sugar produced in the Azores.

Source: Council Regulation (EC) No 318/2006 (Annexes III and IV).

“Industrial sugar” is the non-quota sugar that is destined for industry. In order to broaden the commercial uses of sugar in the EU’s internal market, member states can produce a surplus destined to the manufacture of products such as bioethanol, alcohol, rum and live yeast; certain sugarless industrial products that use sugar in their manufacture; and certain products of the chemical and pharmaceutical industries that contain sugar[91]. As in the case of the previous regulations, a production subsidy can be granted for most of these transformed products, taking into account the costs that the industry bears when purchasing sugar at the EU price instead of on the world market [92].

Lastly, in addition to “quota sugar” and “industrial sugar”, countries are allowed a volume of sugar known as “surplus sugar”[93]. Surplus sugar can be carried over to the next trade year as quota sugar, put on account against the following year’s production. It can also go to the ultra-peripheral regions[94] for human consumption or the manufacture of other products, under an exemption scheme on import duties, but the amount is limited by a supply forecast plan. Thirdly, surplus sugar can be exported within the limits set by the EU purchase commitments in the WTO[95]. The remaining surplus sugar must attract a charge fixed by the Commission in order to discourage non-quota stockpiles[96].

As a consequence, sugar processors now have a single guaranteed quota for sugar, which is subject to a charge of 12 euros/mt. Processors are responsible for payment of the charge, but they are entitled to pass on as much as 50% of it to sugar beet and sugar cane growers[97]. In addition, they can request an additional quota from the member state where they are located in return for paying the higher charge of 730 euros/mt for additional quota sugar[98]. Both quantities of sugar come under the heading “quota sugar”. Processors can also produce non-quota sugar. If it is for industrial use (“industrial sugar”), then

no charge is payable. On the other hand, if it is "surplus sugar" that is not to be used in any of the ways mentioned above, then it attracts a charge of 500 euros/mt[99].

**IV.B- Price Regime**

The Council of Ministers continue to set a number of institutional prices annually within the context of the CMO for sugar. However, the transition from a system based on indirect support to one built on direct support is already to hand. The price regime set under the Regulation of 2006 is less generous than the Regulation of 2001, cutting the degree of government intervention in the sugar market. Moreover, the Regulation of 2006 introduces compensation measures: a restructuring fund for sugar manufacturers and a scheme of direct income supports for growers.

The intervention prices for both white sugar and raw cane sugar are withdrawn and institutional prices known as "market reference prices" are established. This is not merely a name change. The reference prices are lower than the intervention prices and reflect a less generous intervention scheme.

The price regime for the trade years 2006/07-2009/10 is set out in Table 7. The reference prices for white sugar and raw cane sugar reflect a 36% cut in their previous respective intervention prices. As shown in the table, the current price of white sugar is to cut progressively during the final two years[100]. In the case of raw cane sugar, the price is to be stepped down throughout the four years[101]. Lastly, the minimum price for sugar beet continues to be set based on the reference price for white sugar, and sugar processors must guarantee this price to sugar beet growers whether their produce is destined to become quota sugar, industrial sugar or surplus sugar[102].

Under the intervention scheme, if the market price should fall below the reference price in any given trade year, the intervention boards will continue to operate the buy/sell system in order to help stabilise the market. Intervention, however, is now subject to new limits. Thus, the national boards can purchase up to 600,000 mt of quota sugar a year across the entire EU[103], and this quantity is subject to a storage contract between the national board and seller in question, set at 80% of the reference price for the following year[104]. The intervention board must subsequently sell the sugar at a price that is above the reference price for the year in which the sale takes place. An exception is still made to permit sales at a price equal to or below the reference price if the sugar is destined for animal feed or the export market[105]. In June 2006, i.e. at the outset of the trade year 2006/07, the intervention boards of Belgium, the Czech Republic, Germany, Hungary, Ireland, Italy, Poland, Slovakia, Slovenia, Spain and Sweden sold 1,370,637 mt of sugar on the internal EU market which had been bought by them before 10 February 2006[106].

As well as setting limits on intervention quantity and price, the Regulation of 2006 establishes new mechanisms to withdraw production from the market. The mechanisms apply to both sugar processors and the European Commission. Thus, if the market price lies below the reference price, processors of quota sugar can withdraw production from the market using a private storage scheme. Such storage receives a support set by the Commission in order to offset a portion of the costs[107]. The Commission, for its part, can withdraw quota sugar from the market for the length of time needed to rebalance the market at a price level nearer the reference price. The withdrawal must apply to an equal percentage of quota sugar for all member states and it must remain in effect until the beginning of the following trade year[108]. In this case, the storage costs of withdrawn sugar falls to the companies allocated a quota. Once

withdrawn, the quantities must be reintroduced into the market as quota sugar in the following year, although they may come to be treated as surplus sugar because of the market's development[109].

To adapt to the current state of the market, a temporary withdrawal measure was agreed for quota sugar for the trade year 2006/07[110]. The European Commission set a threshold for how much of each company's production of quota sugar is considered withdrawn[111]. Based on this amount, the Council of Agriculture Ministers passed a Commission proposal in March 2006 aimed at withdrawing production in the region of 2.5 million mt (13.5% of all quota sugar) for the year 2006/07. The approved measure distributed the volume of sugar to be withdrawn among member states, especially the ones that produce more sugar for export. The amount included the possible voluntary renunciation of quota by companies through the restructuring fund[112].

| **Table 7: Price Regime and Restructuring Fund Established for the Years 2006/07 - 2009/10.** | | | | |
|---|---|---|---|---|
| (In euros/mt) | | | | |
| | **2006/07** | **2007/08** | **2008/09** | **2009/10** |
| REFERENCE PRICE FOR WHITE SUGAR | 631.9 | 631.9 | 541.5 | 404.4 |
| *Cumulative Reduction (%)* | | *0* | *14* | *36* |
| REFERENCE PRICE FOR RAW SUGAR | 496.8 | 496.8 | 448.8 | 335.2 |
| *Cumulative Reduction (%)* | | *0* | *10* | *33* |
| MINIMUM PRICE FOR SUGAR BEET | 32.86 | 29.78 | 27.83 | 26.29 |
| | | | | |
| RESTRUCTURING COSTS | 126.4 | 173.8 | 113.3 | - |
| REFERENCE PRICE, NET OF RESTRUCTURING COSTS | 505.5 | 458.1 | 428.2 | 404.4 |
| *Cumulative Reduction (%)* | *20* | *28* | *32* | *36* |
| | | | | |
| RESTRUCTURING AID[(1)] | 730 | 730 | 625 | 520 |
| | | | | |
| BALANCE FOR RESTRUCTURING FUND BUDGET | | | | |
| Restructuring Costs | 2,196 | 2,125 | 1,391 | 0 |
| Restructuring Aid | 1,144 | 4,501 | 3 | 0 |
| | | | | |
| [(1)] If a company renounces the entire quota allocated to one or more of its factories and then dismantles the affected productive facilities. | | | | |
| | | | | |
| Source: Council Regulations (EC) No 318/2006 and 320/2006. Council, *Clarification from the Commission on the Financial Consequences of Reforming the CMO in Sugar*, 7978/06, AGRIFIN 29, FIN 114, AGRIORG 34, 2006. | | | | |

Table 7 also shows that the cut in indirect supports is accompanied by a restructuring fund lasting four years in duration. The aims of the fund are to provide an incentive to less competitive producers to leave the industry, to address the social and environmental effects of factory closure, and to get money to the most affected regions. Support on a declining basis will be given to sugar manufacturers for each metric tonne of quota sugar that they renounce

during the period 2006/07 to 2009/10[113]. The support is to be funded through a levy on each metric tonne of quota sugar produced by processors holding quotas during the period 2006/07 to 2008/09[114]. A reserve of about 10% of the restructuring aid is to compensate growers of sugar beet and sugar cane who are affected by the industry's renunciation of quota sugar[115]. Member states may allocate a portion of the restructuring money to diversification measures in regions affected by the restructuring of the sugar industry[116]. Based on the results of the restructuring fund, the European Commission will decide the percentages by which sugar quotas will be cut for member states so that there are no disequilibriums in the market from the year 2010/11[117].

In addition, because the drop in institutional prices brings with it a significant income cut to growers of sugar beet and sugar cane, a system is being set up involving direct, non-production payments. The system of direct income support involves an annual average expenditure of 1.4 billion euros for the EU budget (EAGGF-G) throughout the period 2007-13. It compensates for 60% of each grower's estimated losses, caused by the cut in institutional prices in the years 2006/07 and 2007/08, and for 64.2% of such losses from 2008/09 onwards. Within the budgetary limits of the CAP, the calculation of supports is based on the same reference period used in the CAP reform of 2003 (2000-02)[118]. Table 8 shows the financial report for overhauling the CMO for sugar, based on the forecasts for 2007-2013.

**Table 8: Expenditure and Income from the New CMO for Sugar.**
(In million €'s)

| EXPENDITURE | *Status quo* | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|---|
| Domestic Support | 0 | 904 | 1,215 | 1,473 | 1,605 | 1,581 | 1,581 | 1,497 |
| Export Subsidies | 1,253 | 396 | 30 | 0 | 0 | 0 | 0 | 0 |
| Production Subsidies to the Chemical Industry | 223 | 22 | N/A | N/A | N/A | N/A | N/A | N/A |
| Aid to Refineries | 41 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| POSEI | 18 | 42 | 49 | 56 | 60 | 60 | 60 | 60 |
| Storage Assistance | 0 | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| *TOTAL* | *1,535* | *1,364* | *1,294* | *1,529* | *1,665* | *1,641* | *1,641* | *1,557* |
| | | | | | | | | |
| **INCOME** | | | | | | | | |
| Production Charge | 0 | 0 | 115 | 115 | 115 | 115 | 115 | 115 |
| Additional Quota | 0 | 659 | N/A | N/A | N/A | N/A | N/A | N/A |
| Surplus | 0 | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Production Levy | 498 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| *TOTAL* | *498* | *659* | *115* | *115* | *115* | *115* | *115* | *115* |

N/A: not available

Source: Council, *op. cit.*, 2006.

### IV.C- Trade Flows with Non-EU Countries

The EU's system of trade flows with non-EU countries is not undergoing great changes. It includes import duties (common customs tariffs and additional customs duties), tariff quotas based on preferential agreements, and export subsidies. The expectation is, however, that the reforms introduced in the CMO's price regime will make cuts possible in both sugar surpluses and the price gap with world market levels. That would limit the need for export subsidies and enable the EU to meet commitments that may be reached in the current Doha Round.

The greatest change embodied in the new regulations concerns the preferential imports of sugar. In the first place, raw cane sugar imports needed to satisfy the “traditional supply needs” [119] of European refiners are rising to 1,796,351 mt because of the new supply received by the refinery in Slovenia (19,585 mt)[120]. The forecast is for these supply needs to go up by 50,000 mt in 2007/08 and by 100,000 mt from 2008/09 onwards. In addition, Portugal’s refiners will be able to boost supply by 30,000 mt starting in 2006/07 and by 35,000 mt in the year in which the sugar quota is cut by at least 50%[121].

Tariff quotas to meet EU refineries’ supply needs remain the same, but the quota for “CXL concession” sugar rises to 126,671 mt for the trade year 2006/07 and 96,801 mt for subsequent years[122]. Additional raw cane sugar[123] can be imported in the amounts of 70,000 mt from the ACP beneficiaries of Protocol No 3 and 12,500 mt from India in the year 2006/07. This is based on an annual EU balance sheet exercise of raw sugar supply needs[124]. The additional sugar replaces the volume imported under the Special Preferential Sugar Agreement, which expired at the end of 2005/06.

As far as preferential imports of sugar are concerned, the quota of 200,000 mt for sugar from the Balkans remains, which started in the trade year 2005/06. For the year 2006/07, a one-off rise of 246,500 occurred (Albania, 1,250 mt; Bosnia and Herzegovina,15,000 mt; Serbia and Montenegro, 225,000 mt; and FYRM, 5,250 mt)[125]. A quota was also set for Croatia. On 14 March 2006, the European Commission concluded negotiations with Croatia with a view to establishing a reciprocal sugar tariff quota that was to take effect on 1 January 2007. Under the agreement, the EU is to import a tariff-free quota of 180,000 mt of sugar from Croatia and, in return, receive a concession that grants preferential access at a reduced tariff to the Croatian market for a volume of 80,000 mt of sugar[126].

In the case of export subsidies, compensation can be given for the gap between the world price and the EU price insofar as it is deemed necessary—while abiding by WTO commitments[127]—to enable exports to non-EU countries of sugar that has not undergone further transformation nor is an ingredient in transformed products. Thus, while awaiting the commitments to be reached in the Doha Round, exports of both quota sugar and surplus sugar not consumed within the UE but bound for non-EU countries can be supported with export subsidies[128]. Doing so must respect the obligations already assumed by the EU in the Uruguay Round and in the WTO's settlement of the dispute concerning the EU's system of sugar export subsidies. That means that subsidies on re-exporting ACP sugar must fully comply with the international commitment to reductions. It also means that exports of C sugar remain under ban[129].

In any case, as Table 8 shows, the financial figures for the overhaul of the CMO for sugar, in the context of the Financial Outlook for 2007-2013, only reflects forecasted spending on export subsidies for the years 2007 (396 million euros) and 2008 (30 million euros). There is no expectation of a need for export subsidies from 2009 onwards. The previous production levies on A and B sugar to meet the cost of subsidies would thus be eliminated.

## V. The CMO for sugar and international demands for liberalisation

The overhaul of the CMO for sugar in 2006 focused largely on the price regime. In keeping with other CMO reforms introduced since 1992 as part of the CAP, the system is beginning to shift from indirect aid to direct aid. Thus, the fall in institutional prices is accompanied by a new restructuring fund aimed at companies that have to renounce all or part of their quota, as well as a system

of direct income supports for growers. The question is whether these reforms do enough to address the EU's current and potential commitments on the international stage.

There is no doubt that the CMO for sugar was not ready before the reform of 2006 to respond to new calls for liberalisation in any of the three pillars: domestic support, export subsidies and market access. The pre-2006 CMO regulated how the European sugar market had functioned since 1968 and it had only undergone partial reform in 1999 in order to adapt to the Agriculture Agreement agreed in the Uruguay Round of GATT talks.

In the area of domestic support, the pre-2006 CMO provided for automatic intervention or guaranteed prices. The national intervention boards would guarantee minimum prices for set quotas of sugar and would not limit the production of non-quota sugar. To safeguard the economic interests of all European growers and processors in the sugar sector, the European Community set high institutional prices because of the large gap in competitiveness among agricultural operators. That explains why domestic aid to the sugar sector, in the form of price supports, amounted to 15% of total MSN-related aid for the EU-15 (5,732.1 million euros out of a total 39,281.3 million euros) for the trade year 2001/02[130]. As a whole, sugar received the second-highest level of indirect aid behind beef. As a result, it is practically impossible to meet future commitments to lower MSN without cutting the indirect aid granted to the sugar sector.

The regime of high prices was a production incentive, first giving rise to surpluses in the eighties. As shown in Table 9, the sugar supply in the European market, which included all A, B and C sugar produced by the European sugar industry and refinery imports of, largely, raw cane sugar, was far in excess of internal consumption levels through the period 2000/01 to 2004/05. The EU

generated yearly production surpluses of around 6 million metric tonnes, which were exported on the international market, mostly with the support of subsidies. This was the largest outlet for surpluses, given that annual subsidised sugar exports exceeded the limit adopted in the Uruguay Round. It was out of the question, therefore, that the previous CMO would be able to meet the international commitment to phasing out export subsidies if, in fact, the chapter stipulating this commitment in the Uruguay Round was already being violated.

**Table 9: Balance Sheet for the European Sugar Market 2000-2005.**
(In thousands of metric tonnes)

| | **EU-15** | | | | **EU-25** |
|---|---|---|---|---|---|
| | **2000/01** | **2001/02** | **2002/03** | **2003/04** | **2004/05** |
| 1. Production | 17,015 | 14,893 | 16,676 | 15,501 | 19,828 |
| *Quotas for A and B Sugar* | *13,240* | *13,573* | *13,407* | *13,421* | *16,762* |
| *C Sugar* | *3,775* | *1,320* | *3,269* | *2,080* | *3,066* |
| 2. Imports | 2,409 | 2,611 | 2,502 | 2,523 | 2,785 |
| **Supply (1 +2)** | 19,424 | 17,504 | 19,178 | 18,024 | 22,613 |
| 3. Consumption | 12,900 | 12,942 | 12,914 | 12,992 | 15,237 |
| 4. Exports | 6,720 | 4,639 | 6,213 | 5,187 | 5,932 |
| *Quotas for A and B Sugar* | | | | | |
| + | *2,945* | *3,319* | *2,945* | *3,107* | *2,865* |
| *Refined Sugar* | *3,775* | *1,320* | *3,268* | *2,080* | *3,067* |
| *C Sugar* | | | | | |
| | 1,273.5 | 1,273.5 | 1,273.5 | 1,273.5 | 1,273.5 |
| Limit on Subsidised Exports | | | | | |
| Adopted in the Uruguay Round | 19,620 | 17,581 | 19,127 | 18,179 | 21,169 |
| **Demand (3+4)** | | | | | |

*Note*: The numerical discrepancy between supply and demand is statistical in nature.
Source: European Commission, Directorate-General for Agriculture and Rural Development.

Unsurprisingly, the EU ceased to be one of the principal sugar-importing economies in the mid-sixties and instead became the second-largest sugar exporter in the world (behind Brazil) at the beginning of the eighties. It is also unsurprising that the EU has been attacked on numerous occasions for dumping sugar on non-EU markets. As a consequence, it can be argued that EU sugar policy has helped to depress world prices and, therefore, distort the world market.

As far as market access is concerned, the EU sugar market has, for all intents and purposes, been closed to sugar imports from non-EU countries, with the exception of preferential imports based on tariff quotas, which have basically been aimed at satisfying the raw sugar supply needs of European refineries. Given the excess supply of sugar within the EU, preferential imports have been severely limited. They have also been affected by the application of a high tariff, stemming from the common external tariff and the special safeguard provisions, which have made up the difference between internal and external prices. As a result, the previous CMO was not able to deal with both a new cut in tariffs and the elimination of the special safeguard provisions, because that would have put internal production in jeopardy.

The latest CMO for sugar now makes it possible to meet the new commitments undertaken within the framework of the World Trade Organisation. These include complying with the ruling against the EU's system of sugar export subsidies and the multilateral negotiations being pursued in the Doha Round. The three affected pillars remain domestic support, market access and export subsidies.

In the area of domestic support, cutting the intervention price for sugar by 36% allows for substantial cutbacks in the amount of domestic aid given within

the EU. In particular, reduced aid to the sugar sector contributes to reaching a reduction of 44.6% in the EU's MSN, coming out of the CAP reforms[131]. It represents a reform, therefore, that clearly makes it possible for the EU to comply with Doha demands in this area. It must also be borne in mind that the restructuring fund and direct aid to growers are green-box supports. In other words, they are allowable supports that are not subject to calls for reductions.

As for market access, the EU's proposal for sugar tariffs is a 36% cut in prices. This would be sufficient if the EU managed to have sugar considered a "sensitive product", especially taking into account that it will no longer have recourse to the special safeguard provisions. On 1 August 2004, when the new work programme of the Doha Round was approved, a tiered formula was agreed as necessary to go forward with tariff reduction. Under the formula, the highest tariffs would be the most severely cut. According to the latest available data, tariffs over 90% would, in principle, be subject to a cut of between 70% and 80%[132]. The large gap between EU and world sugar prices makes it difficult for the EU to tackle the removal of sugar tariffs to such an extent[133]. According to OECD data, the EU price will still run at more than twice the world price in the year 2010/2011[134]. As a result, the expectation is that the EU will negotiate in favour of listing sugar as a "sensitive product" so that it attracts a less severe tariff cut[135]. At the same time, it is anticipated that the EU will continue employing tariff quotas to address its commitments to developing and neighbouring countries, such as the new annual import quotas granted to sugar from the Western Balkans. Moreover, as explained earlier, the EU has made a commitment under the "Everything But Arms" Agreement to eliminate quotas and tariffs on sugar imported from the less developed countries from 2009 onwards and that may constitute a threat to the stability of the internal market.

The reform best prepares the CMO for sugar to tackle the third area of international demands: export subsidies. Cutting intervention prices and applying new management instruments should lead to a more stable internal market, i.e. one that is capable of dealing with surpluses without relying on export subsidies to reach the external market. In fact, the financial outlook does not foresee the need to fund export subsidies for sugar from 2009 onwards, which will make it possible to comply with the WTO's settlement of the trade dispute against the previous European system of export subsidies. It will also make it possible to face up to any commitments that may be adopted in the Doha Round. Along the same lines, at the Sixth Ministerial Conference of the WTO held in Hong Kong in December 2005, the developed countries agreed to eliminate all export subsidies on agricultural products by 2013.

Cutting intervention prices needs to bring about an adjustment in production and, therefore, falling surpluses. The purpose of the restructuring fund is precisely to compensate for the effects on the industry of renouncing quota. In Council session no 2703 on 23 January 2006, mention was made especially of Italy, Poland and Portugal, who would likely suffer national cuts of over 50% in 2006/07 with respect to the previous year. In Spain, the company Ebro Puleva decided to close its factory in Ciudad Real because a majority of growers decided not to go ahead with sugar beet planting in the year 2006/07 and chose instead to dedicate their land to other crops[136].

The adjustment in production, however, will have to be dramatic to end surpluses. As can be seen in Table 10, EU surpluses are going to continue, even if no non-quota sugar (C sugar, previously) is produced and some portion of production is subsidised for export (keeping in mind that, under commitments purchased in the WTO, the re-export of ACP and Indian sugar must abide by the limit agreed in the Uruguay Round).

| **Table 10: Potential Post-2006 Scenario.** (In thousands of metric tonnes) | |
|---|---|
| 1. Production | 17,441 |
| *Quota Sugar (based on regulation, excluding additional quota)* | *17,441* |
| *Non-quota Sugar (hypothesis)* | *0* |
| 2. Imports (based on quotas) | 2,391 |
| **Supply (1 +2)** | 19,832 |
| 3. Consumption | 15,240 |
| 4. WTO Limit on Subsidised Exports | 1,417 |
| **Demand (3+4)** | 16,657 |
| Surplus | 3,175 |

Thus, in order to limit export volumes, the Regulation of 2006 broadens the array of management instruments that address the production surpluses of the CMO for sugar. In addition to the system for transferring quotas among companies, the mechanism for carrying over sugar to the following year, and the buy/sell operations of the national intervention boards, all of which existed previously, the European Commission can now withdraw sugar for a period deemed necessary, companies can receive aid to store sugar, and companies are to be penalised for production of additional quota sugar that is surplus and has no specific use.

In short, a critique of the international dimensions of the reform of the sugar regime leads to the conclusion that it is more defensive than liberalising.

The introduced changes constitute the least necessary to address the Doha talks adequately. Cutting intervention prices by 36% means that "amber-box" support can be reduced. The cut also makes it possible to take on a certain lowering of tariffs in accordance with sugar's designation as a "sensitive product". Similarly, the adjustment in production and the use of new instruments to manage surpluses mean that export subsidies can be eliminated in the medium term. Nevertheless, in the medium to long term, the EU will have to face up to new international calls for lower domestic support, more tariff cuts and the free entry of sugar from the PMA countries.

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[2] OJ, L 58, 28.2.2006.

[3] OJ, L 110, 17.5.1995.

[4] OJ, L 252, 25.9.1999.

[5] CMO, European Communities – Export Subsidies on Sugar – Panel Report – Complaint Filed by Brazil, Australia and Thailand, WT/DS266/R, WT/DS265/R, WT/DS283/R, 15.10.2004.

[6] *"Subject to the provisions of paragraphs 2(b) and 4 of Article 9 of this Agreement, a Member shall not provide export subsidies listed in paragraph 1 of Article 9 in respect of the agricultural products or groups of products specified in Section II of Part IV of its Schedule in excess of the budgetary outlay and quantity commitment levels specified therein and shall not provide such subsidies in respect of any agricultural product not specified in that Section of its Schedule".*

[7] *"Each Member undertakes not to provide export subsidies otherwise than in conformity with this Agreement and with the commitments as specified in that Member's Schedule."*.

[8] CMO, European Communities – Export Subsidies on Sugar – Report of the Appellate Body, WT/DS266/AB/R, WT/DS265/AB/R, WT/DS283/AB/R, 28.4.2005.

[9] Art. 21.3(c) of the Text of Understanding concerning the settlement of disputes establishes that the reasonable deadline that shall be granted to an infringing nation to eliminate the measure in question must not exceed fifteen months, except in given circumstances.

[10] The Aggregate Measure of Support (AMS) was defined in the Uruguay Round and includes domestic support that is specific to a product (price supports), non-exempt direct payments to producers, input supports, subsidised insurance, etc.

[11] The blue box has permitted direct support established in the CAP reform of 1992 to be exempted from reduction commitments, even though they are related to agriculture production.

[12] It is, however, contemplated that developing countries may apply the special safeguard provisions.

[13] OJ, L 308, 18.12.1967.

[14] OJ, L 359, 31.12.1974.
[15] OJ, L 177, 1.7.1981.
[16] OJ, L 252, 25.9.1999.
[17] OJ, L 178, 30.6.2001.
[18] For an in-depth analysis of all these instruments, see CASANOVA, M.E., *Evaluación de impacto del Protocolo del Azúcar CE-ACP*, doctoral thesis, University of Barcelona, 2005, pp. 186-226, http://www.tdx.cesca.es/TDX-0407105-122429
[19] These include the French overseas departments (Guadaloupe, French Guiana, Martinique and Reunion), the autonomous regions of Portugal (the Azores and Madeira) and the Spanish autonomous community of the Canary Islands.
[20] Art. 11.1.
[21] In reality, some companies also received a small quota for isoglucose and/or inuline syrup, which are substitutes for liquid sugar. Isoglucose had been incorporated into the CMO for sugar in 1977, under Council Regulation (EEC) No 1111/77 (OJ, L 134, 28.5.1977), and inuline syrup had been included in 1993, under Council Regulation (CEE) No 1548/93 (OJ, L 154, 25.6.1993). In any event, given that their volumes are small, the present study addresses sugar in its solid state.
[22] Art. 1.2.
[23] The levies served to fund export subsidies and will be discussed in a later section on trade relationships with non-EU countries.
[24] How these bodies function is explained in the next section.
[25] Art. 13.1.
[26] In particular, the EC adopted a series of specific measures as part of the POSEI scheme, which had the aim of promoting local sugar production in ultra-peripheral regions, because of their remoteness and/or island status, so as to guarantee supply (Council Regulations (EC) No 1452/2001, No 1453/2001 and No 1454/2001, OJ, L 198, 21.7.2001).
[27] This reduction scheme was first applied in the trade year 2000/01, while Council Regulation (EC) No 2038/1999 was in force, and it cut sugar quotas amounting to 478,277 mt (Commission Regulation (EC) No 2073/2000, OJ, L 246, 30.9.2000).
[28] Equivalent to the difference between sugar production within A and B quotas and the respective domestic consumption.
[29] Art. 10.4.
[30] This was in accordance with European Commission Regulations (EC) No 1745/2002 and No 1739/2003 (OJ, L 263, 1.10.2002 and OJ, L 249, 1.10.2003, respectively).
[31] The sugar transfer mechanism used by sugar processors is explained farther on.
[32] Commission Regulation (EC) No 1609/2005 (OJ, L 256, 1.10.2005).
[33] For a more detailed account of how the WTO dispute was settled against EU sugar export subsidies, see CASANOVA, M.E., «¿Cómo las normas de la OMC afectarán al régimen del azúcar UE-ACP?», *Revista Electrónica de Estudios Internacionales*, No 11, March 2006, pp. 1-18.
[34] Commission Regulation (EC) No 769/2006 (OJ, L 134, 20.5.2006).
[35] Art. 12.
[36] Commission Regulation (EC) No 2223/2000 (OJ, L 253, 7.10.2000) established that the maximum quantity of sugar that each company could carry over was not to exceed 20% of their A quota. Sugar processors were also allowed to carry over all or part of their B quota sugar production (Art. 14.1).
[37] The Regulation of 2001 eliminated the reimbursement scheme for storage costs in order to bolster competition between companies, especially in regions of the principal markets where they were various intermediate suppliers. It did so also to lower the sale price in the closing

period of the production year and to discourage production of non-quota sugar, or C sugar. The reimbursement scheme had been funded through a charge levied on processors, in keeping with the principle of budget neutrality.

[38] International Monetary Fund, *International Financial Statistics Yearbook*, 2005.

[39] European Commission, "Proposed Overhaul of the Sugar Market", *Newsletter*, No 27, 2000.

[40] Art. 2.1.

[41] Art. 7.1.

[42] Art. 9.1.

[43] European Commission, *A description of Common Organisation of the Sugar Market*, AGRI/63362/2004, 2004.

[44] Commission Regulations (EC) No 1306/2005, 1307/2005 and 1308/2005 (OJ, L 208, 11.8.2005).

[45] Commission Regulations (EC) No 1648/2005, 1649/2005, 1650/2005, 1651/2005 and 1652/2005 (OJ, L 266, 11.10.2005)

[46] Commission Regulations (EC) No 22/2006 and 705/2006 (OJ, L 5, 10.1.2006 and OJ, L 122, 9.5.2006, respectively).

[47] Art. 2.2. No intervention price was set for raw beet sugar because European processors obtain white sugar as the final step of the production process.

[48] Art. 3.1.

[49] The next section focuses on trade flows between EU and non-EU countries. It also defines the nature and purpose of production levies.

[50] Art. 4.1.

[51] Art. 22.1.

[52] Art. 23.1.

[53] This would, therefore, also meet the requirement made of developed nations in the Uruguay Round's Agriculture Agreement to cut tariffs by a minimum of 15% per product.

[54] GILLSON, I., A. HEWITT and S. PAGE, *Forthcoming Changes in the EU Banana/Sugar Markets: A Menu of Options for an Effective EU Transitional Package*, Overseas Development Institute, 2005, p. 31.

[55] One refinery in the United Kingdom, two in France, two in Portugal and one in Finland.

[56] They were distributed as follows: 59,925 mt for Finland; 296,627 mt for France; 291,633 mt for Portugal; and 1,128,581 mt for the UK (Art. 39.2).

[57] Over time, however, they were cut back because of the quota reduction scheme for A and B sugar. The cuts were 12,588.2 mt, 2,691.5 mt and 14,676 mt, respectively, for the trade years 2002/03, 2003/04 and 2005/06 (Commission Regulations (EC) No 1745/2002, 1739/2003 and 1609/2005).

[58] They include Barbados, Belize, Fiji, Guyana, the Ivory Coast, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Republic of the Congo, St Kitts and Nevis, Suriname, Swaziland, Tanzania, Trinidad and Tobago, Uganda, Zambia and Zimbabwe.

[59] Attachment to Annex 5 of the EU-ACP Agreement of Association (OJ, L 317, 15.12.2000).

[60] From the first years of the agreement, India failed to meet its stipulated delivery commitment of 25,000 mt. The EU, nevertheless, granted it a new, albeit lower, quota of 10,000 mt to go into effect in 1983/84 (KOCH, T., «The Sugar Protocol: an Appraisal», *Intereconomics*, 24(6), 1989, pp. 293-297).

[61] OJ, L 190, 23.7.1975.

[62] This quota made up part of the concession package figuring in the "CXL—European Communities" list and was aimed at respecting the EU's traditional import flows of sugar from Austria, Finland and Sweden after they joined the EU in 1995 (Council Regulation (EC)

No 1095/96, OJ, L 146, 20.6.96). This quota was the only one to attract the reduced tariff of 98 euros/mt, while the others were exempt of duties.
[63] Council Regulation (EC) No 416/2001 (OJ, L 60, 1.3.2001). The regulation set an overall zero-tariff quota of 74,185 mt for the first year 2001/02, with the quota rising annually by 15% through the year 2008/09 (Art. 6.5). In addition, the tariff is to fall throughout the period, until it is eliminated altogether in 2008/09 (Art. 6.4). That means that sugar imports from PMA nations will be tariff-free beginning in the year 2009/2010.
[64] Council Decision 2001/870/EC (OJ, L 325, 8.12.2001).
[65] OJ, L 240, 23.9.2000.
[66] European Commission, *The European sugar sector. Its importance and its future*, 2005.
[67] Commission Regulation (EC) No 1004/2005 (OJ, L 170, 1.7.2005).
[68] Commission Regulation (EC) No 2151/2005 (OJ, L 342, 24.12.2005).
[69] Protocol No 3 on ACP sugar and the EU-India Agreement were both adopted in 1975. From 1 July 1976, export subsidies were granted for preferential sugar exports equivalent to the volumes of ACP and Indian sugar previously imported by the EC (Council Regulation No 1489/76, OJ, L 167, 26.6.1976).
[70] Art. 27.5.
[71] In 2002, agrofood industries exported 680,000 mt of sugar as an ingredient in its finished products (Committee of Industrial Users of Sugar, *Reform of the EU Sugar Regime*, 2003). As the European agrofood industry supported high sugar purchase prices, it was given export subsidies for its products based on the quantity of sugar put into them. The goal was to avoid the danger of products being uncompetitive beyond EU borders. In the same say, sugar purchases made by the EU's chemical and pharmaceutical industries benefited from production subsidies in order to face competition from non-European companies both within and beyond EU boundaries.
[72] Art. 27.1. European sugar exports of raw sugar were extremely small. In each trade year, the EC exported small quantities of cane sugar that came, generally, from the French overseas departments, Spain and ACP preferential imports. .
[73] Sugar exports used in the manufacture of all other agrofood products transformed and exported under subsidy were subject to a different CMO restriction.
[74] Because the compensation mechanism for storage costs was eliminated, export subsidies also incorporated the cost of storage levies.
[75] Art. 15.3.
[76] Art. 15.5.
[77] Similarly, the sugar beet base price paid to growers was 58% of the intervention price received by the industry for white sugar—see Table 2 again.
[78] European Commission, *op. cit.*, 2004.
[79] European Commission, *Reforming the European Union's Sugar Policy: Summary of Impact Assessment*, draft paper, SEC (2003) 1022, 23.9.2003.
[80] European Commission, *Accomplishing a Sustainable Agricultural Model for Europe through the Reformed CAP – the Tobacco, Olive Oil, Cotton and Sugar Sectors*, CMO (2003) 554 final, 23.9.2003.
[81] European Commission, *Accomplishing a Sustainable Agricultural Model for Europe through the Reformed CAP – Reform of the Sugar Sector*, CMO (2004) 499 final, 14.7.2004.
[82] Council, press communication, session no 2619 of the Agriculture and Fisheries Council, 14446/04, 22.11.2004, pp. 9.
[83] European Commission, *Draft Council Regulation Establishing the Common Market Organisation in the Sugar Sector*, CMO (2005) 263 final, 22.6.2005.

[84] Council, press communication, session no 2692 of the Agriculture and Fisheries Council, 14178/05, 24.11.2005, pp. 7-10.
[85] Council, press communication, session no 2708 of the Agriculture and Fisheries Council, 6083/06, 20.2.2006, pp. 10.
[86] The new regulation raises the percentage of the quota that states can transfer between companies located in their territory, for the initial two trade years (see Art. 11).
[87] OJ, L 378, 23.9.2003. On 1 January 2007, in preparation for the sixth enlargement of the EU, their respective acts of accession set a quota of 109,164 mt for Romania and 4,752 mt for Bulgaria (OJ, L 157, 21.6.2005).
[88] Art. 8.1.
[89] Under the previous regulatory scheme, the trade year began on 1 July and finished on 30 June of the following year. To facilitate the change, the year 2006/07 started on 1 July 2006 and closed on 30 September 2007.
[90] The sugar must come from sugar beet planted before 1 January 2006 (Commission Regulation (EC) No 493/2006, OJ, L 89, 28.3.2006).
[91] Art. 13.2.
[92] Art. 13.3.
[93] The respective definitions are set out in Art. 2.
[94] This is in accordance with Council Regulation (EC) No 247/2006 (OJ, L 42, 14.2.2006). The POSEI support programme is to continue guaranteeing support and development for agricultural production in these regions.
[95] Art. 12.
[96] Art. 15.
[97] Art. 16. As a temporary measure, the system of production levies remained in force for the year 2006/07 (Commission Regulation (EC) No 493/2006). The new charge goes into effect in 2007/08.
[98] Art. 8.3.
[99] Commission Regulation (EC) No 967/2006 (OJ, L 176, 30.6.2006).
[100] Art. 3.1.
[101] Art. 3.2.
[102] Art. 5.
[103] Details concerning the maximum amounts for each member state are set out in the annex to Commission Regulation (EC) No 952/2006 (OJ, L 178, 1.7.2006).
[104] Art. 18.2.
[105] Art. 18.3.
[106] Commission Regulation (EC) No 1039/2006 (OJ, L 187, 8.7.2006).
[107] Art. 18.1.
[108] The percentage is to be set each year no later than 31 October, taking into account the anticipated evolution of the market.
[109] Art. 19.
[110] Art. 44.
[111] Art. 3 and Annex I of Commission Regulation (EC) No 493/2006.
[112] European Commission, "Sugar Production: EU Member States Agree to One-year Cut", *Newsletter* No 79, February/March 2006.
[113] For the purposes of applying the fund, dismantling production facilities in 2005/06 is viewed as occurring in 2006/07.
[114] As a result, the reference price, net of restructuring costs, has progressively been lowered from the year 2006/07 (Table 7).

[115] This is in accordance with Art. 3.6 of Council Regulation (EC) No 320/2006 (OJ, L 58, 28.2.2006).
[116] With this aim in mind, the financial support available to member states for cutting back on quota sugar is, in euros per metric tonne, 109.5 euros in 2006/07; 109.5 euros in 2007/08; 93.8 euros in 2008/09; and 78 euros in 2009/10 (Art. 6 of Council Regulation (EC) No 320/2006).
[117] Art. 10.2.
[118] For a fuller understanding, see DÍEZ, E., «La política agrícola común a la luz de su reforma», *Revista General de Derecho Europeo*, No 11, 2006.
[119] These are the "maximum supply needs" cited in previous regulations.
[120] Art. 29.1. Since the fifth enlargement of the EU, therefore, the needs of this refinery have also been taken into consideration.
[121] Art. 29.2. Similarly, traditional needs went up temporarily by 479,087 mt for the year 2006/07 because it lasted 15 months in duration (Commission Regulation (EC) No 493/2006).
[122] The quota will be divided among Cuba (73,711 mt in 2006/07 and 58,969 mt from 2007/08 onwards), Brazil (29,913 mt in 2006/07 and 23,930 mt from 2007/08 onwards), Australia (17,369 mt in 2006/07 and 9,925 mt from 2007/08 onwards) and other non-EU nations (5,678 mt in 2006/07 and 3,977 mt from 2007/08 onwards), subject to the same reduced duty of 98 euros/mt, as stipulated in Art. 24 of Commission Regulation (EC) No 950/2006 (OJ, L 178, 1.7.2006).
[123] In accordance with Art. 29.4.
[124] Commission Regulation (EC) No 1249/2006 (OJ, L 227, 19.8.2006).
[125] Art. 28 of Commission Regulation (EC) No 950/2006.
[126] Council, Document 11627/06, HR 2, AGRI 257, AGRIFIN 51, 2006.
[127] Art. 32.1.
[128] In order to avoid abuses caused by re-importing sugar into the EU that has already benefited from export subsidies, EU sugar cannot be subsidised for export to the Western Balkan countries.
[129] The WTO special panel took the view that exports of C sugar benefited from indirect subsidies through the high price guaranteed to sugar within the quotas.
[130] In accordance with the final WTO notification of 2004 (G/AG/N/EEC/51).
[131] See MILLET, M. and P. GARCIA-DURAN, «La PAC face aux défis du cycle de Doha», *Revue du Marché Commun et de l'Union Européenne*, No 494, 2006, pp. 16-23; and MILLET, M. and P. GARCIA-DURAN, «La Política Agrícola Común ante las negociaciones de Doha», *Noticias de la Unión Europea*, in publication.
[132] See MILLET, M. and P. GARCIA-DURAN, *op. cit.*, 2006.
[133] That would lead to massive sugar imports from non-EU competitors and leading sugar-producing countries (especially Brazil, Australia and Thailand), which would put internal production in jeopardy.
[134] The forecast is for an EU price of 404.4 euros/mt and a world price of 185.6 euros/mt (OECD, *Agricultural Outlook 2004-2013*, 2004).
[135] In general, average production costs are far greater for sugar beet than for sugar cane, and nearly all sugar in the EU comes from sugar beet. Companies that process sugar cane achieve higher volumes of sugar than companies processing sugar beet. As a result, they bear lower average production costs, since variable costs have little relative weight in the cost structure. As the manufacture of sugar (of both kinds) is capital-intensive, fixed costs are high for these companies. For more information, see CASANOVA, M.E., *op. cit.*, 2005, pp. 279-294.
[136] *El País*, "Remolacheros de la zona centro deciden abandonar el cultivo", 20 February 2006.