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COMMISSION STAFF WORKING PAPER

**REPORT ON THE RECOVERY OF EXPORT REFUNDS FOR LIVE BOVINE
ANIMALS IN 2010**

1. INTRODUCTORY PART

1.1 INTRODUCTION

In their joint declaration of 22 November 2001 on the recovery of export refunds for beef and veal, the Parliament and the Council requested the Commission to submit an annual report to the budgetary authority. This report highlighted the implementation of and compliance with EU legislation, on the recovery of refunds in the event of a failure to comply with Commission Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport¹. Parliament and the Council issued another joint declaration along the same lines on 25 November 2002.

Since then the Commission submitted summary annual reports to the Council and the European Parliament which are based on the annual reports submitted by the Member States.

It is recalled that from 1. 1. 2006 export refunds are no longer paid for slaughter animals but only for pure-bred breeding animals of Export Refund Nomenclature codes 0102 10 10 9140 (heifers with a live weight equal to or greater than 250 kg, up to the age of 30 months) and 0102 10 30 9140 (cows with a live weight equal to or greater than 250 kg, up to the age of 30 months) exported from the EU (modification introduced by Commission Regulation (EC) No 2147/2005).

1.2 REINFORCEMENT OF LEGISLATION

Commission Regulation (EC) No 639/2003

The Commission strengthened existing legislation by the adoption of Commission Regulation (EC) No 639/2003 of 9 April 2003 laying down detailed rules pursuant to Council Regulation (EC) No 1254/1999 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport². That regulation provided for mandatory veterinary checks on transport and animals in third countries and introduced norms for penalties and communication of information by the Member States. It was recast and repealed by Regulation (EU) No 817/2010 – see point 2.1.

1.3 Content of the report

The annual reports are based on the number of export declarations of live bovine animals for which the refunds have been paid (Article 8(a)) during the previous calendar year. It may take 6 months or more to complete the process from lodging the export declaration, transporting the animals to the third country, collecting the returned relevant customs and veterinary documents and deciding on the definitive payment of the refunds. Moreover, another aspect of the time gap is that information on refusal or recovery of refunds may be based on export transports having taken place in preceding years.

¹ OJ L 82, 19.3.1998, p. 19–22.

² OJ L 93, 10.4.2003, p. 10–17.

It has to be taken in consideration that the data concerns export refund expenditure relative to the financial year 2010 (from 16 October 2009 to 15 October 2010 (see table 1)).

Member States structured their reports based on the requirements of Regulation (EU) No 817/2010 (Article 8); the same structure will be followed in this consolidated report.

The tables have been established in using the data communicated by the Member States.

2. LEGAL FRAMEWORK

Article 168 of Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)³ subjects the granting and the payment of the refund for exports of live animals to compliance with the provisions established in EU legislation concerning animal welfare and, in particular, the protection of animals during transport. Regulation (EU) No 817/2010 lays down specific detailed rules of application for the export refund arrangements in this sector in order to ensure compliance with legislation concerning animal welfare in the framework of export refunds arrangements. Refunds are paid provided the provisions of Regulation (EU) No 817/2010 and those of Council Regulation (EC) No 1/2005⁴ on the protection of animals during transport and related operations have been met. Regulation (EU) No 817/2010 establishes a system of checks and provides for financial consequences for exporters who fail to comply with the provisions on the transport of animals. The checks and the financial consequences relate to the payment of the refund. They apply without prejudice to the checks provided for by Regulation (EC) No 1/2005.

2.1 Recast of Commission Regulation (EC) No 639/2003 and its repeal by Commission Regulation (EU) No 817/2010

Since Regulation (EC) No 639/2003 had been substantially amended several times and since further amendments were to be made, it was recast in the interests of clarity in 2010 and has been repealed by Regulation (EU) No 817/2010 of 16 September 2010⁵.

Given the discrepancies between different language versions, it was also necessary to clarify that the refund for all animals indicated in the export declaration is to be refused if the number of animals for which no refund is paid amounts to more than 5 % of the number endorsed in the accepted export declaration, but at least three animals, or to 10 animals or more, but at least 2 % of the number endorsed in the accepted export declaration. Article 6(2)(b) therefore had to be amended accordingly.

For more detailed information about the legal background see the previous reports.

3. APPLICATION OF REGULATION (EU) No 817/2010 IN 2010

3.1 AMOUNTS OF EXPORT REFUNDS PAID

The payment of the refund for exports of live animals pursuant to Article 168 of Regulation (EC) No 1234/2007 paid in the years 2006 to 2010 is shown in the following figure:

³ OJ L 299, 16.11.2007, p. 1.

⁴ OJ L 3, 5.1.2005, p. 1–44.

⁵ OJ L 245, 17.9.2010, p. 16.

No exports of live animals in 2010 in the framework of Regulation (EU) No 817/2010 were confirmed by Belgium, Bulgaria, Cyprus, Denmark, Greece, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Poland, Portugal, Romania, Slovenia, Spain, Sweden, United Kingdom.

Table 1

AMOUNTS OF EXPORT REFUNDS ON LIVE BOVINE ANIMALS PAID IN 2006*, 2007*, 2008*, 2009* and 2010*, **					
Member State	2006 (EUR)	2007 (EUR)	2008 (EUR)	2009 (EUR)	2010 (EUR)
AT	2 536 243	2 026 468	1 863 287	1 813 781	1 235 611
CY	161 749				
CZ	250 560	168 170	185 946	242 489	116 132
DE	11 643 823	5 929 080	5 631 047	5 455 436	3 854 866
DK	761 109	391 357	55 815	67 648	
EE					41 365
ES	531 058				
FI			41 179	51 954	77 676
FR	4 523 274	1 194 608	436 568	198 394	622 760
HU	971 709	1 247 615	448 141	1 012 927	772 561
IE	436 125	-38 439		60 052	
IT	875	5 264	4 012	10 119	
NL	4 301 892	3 573 617	1 273 624	1 148 104	1 534 853
SE	220 605	9 257	80 689	74 636	
SI	59 640	24 703	25 882	21 059	
SK					426 548
Total***	26 398 659	14 531 699	10 046 191	10 156 599	8 682 372

* EAGGF financial year starts on 16 October of one year and ends on 15 October of the following year;

** For the data available prior to 2006 see the previous reports;

*** Total can differ due to rounding.

3.2. INFORMATION TRANSMITTED BY MEMBER STATES RELATED TO EXPORT REFUNDS FOR LIVE ANIMALS

Since 2000, the Commission has asked Member States to send annual data on the amounts of refund refused or recovered. Table 7 in Annex 1 gives an overview of the figures sent by the Member States for the year 2010. This chapter compares the information of the years 2006 until 2010.

3.2.1. The number of export declarations of live animals exported with refunds (information provided under Article 8 (a) of Regulation (EU) No 817/2010)

The number of export declarations increased by 6,1% from 2 152 in 2009 to 2 283 in 2010, a number similar to 2008.

Table 2: Number of export declarations*

Member State	Declarations 2006	Declarations 2007	Declarations 2008	Declarations 2009	Declarations 2010
AT	418	244	420	300	259
CY	1				
CZ	33	34	34	26	32
DE	994	992	1 398	1065	1 055
DK	139	124	12	22	
EE					16
ES	3				
FI			9	14	17
FR	674	638	54**	77	162
HU	155	180	111	259	144
IT	1			2	
NL	823	1 017	228	369	504
SE	7	4	27	1	
SI	9	5	6	2	
SK				15	94
Total	3 257	3 238	2 299	2152	2 283

* For the data available since 2002 see the previous reports;

** According to France the definitive payment of export refunds has not yet been effected.

3.2.2 The number of live animals exported with refunds

The total number of live bovine animals exported from the EU, based on the number of export declarations for which refunds were paid, increased by 3 739 animals (5,6%) from 66 408 animals in 2009 to 70 147 animals in 2010. Increase of exports took place in particular in the Netherlands and Slovakia. The number of exported live bovine animals decreased especially in Hungary.

Table 3: Number of live animals exported with refunds*

MS	2006	%	2007	%	2008	%	2009	%	2010	%
	animals		animals		animals		animals		animals	
AT	10 183	11,51%	6 851	8,45%	13 058	18,64%	8 707	13,11%	7 786	11,10%
CY	526	0,59%								
CZ	1 092	1,23%	1 061	1,31%	1 070	1,53%	851	1,28%	1 032	1,47%
DE	32 610	36,87%	30 296	37,37%	41 504	59,26%	32 654	49,17%	33 389	47,60%
DK	3 482	3,94%	2 307	2,85%	278	0,40%	495	0,75%		
EE									476	0,68%
ES	199	0,23%								
FI					366	0,52%	424	0,64%	621	0,89%
FR	7 629	8,63%	1 112	1,37%	1 704**	2,43%	2 205	3,32%	2 762	3,94%
HU	4 840	5,47%	6 194	7,64%	3 508	5,01%	8 363	12,59%	4 697	6,70%
IE										
IT	4	0,01%					70	0,11%		
LT										
NL	27 389	30,97%	33 009	40,72%	7 462	10,65%	12 086	18,20%	16 566	23,61%
SE	233	0,26%	106	0,13%	936	1,34%	36	0,05%		
SI	257	0,29%	136	0,17%	157	0,22%	48	0,07%		
SK							469	0,71%	2 818	4,01%
Total	88 444	100%	81 072	100%	70 043	100%	66 408	100%	70 147	100%

* For the data available since 2002 see the previous reports;

** According to France the definitive payment of export refunds has not yet been effected.

3.2.3 The number of export declarations and animals for which payment of the refund was partly or totally refused or recovered

According to the requirements of Article 8(b) and (c) of Regulation (EU) No 817/2010 the Member States communicated the following information:

The Member States refused to pay the refund in full or in part for 239 (2009: 95) export declarations, concerning 3 192 (2009: 1 306) animals. For another 18 (2009: 32) export declarations, concerning 42 (2009: 597) animals, the export refunds had to be recovered. In total for 4,41% (2009: 2,79%) of the exported animals irregularities occurred in either the refund provisions (like refund code) or in the welfare conditions as mentioned in Regulation (EC) No 1/2005 or in Articles 5, 6 and 7 of Regulation (EU) No 817/2010. The reasons for such partly or total refusals, or partly or total recoveries reported by the Member States are mentioned under point 3.2.5 of this report. Further details are given in Annex 2.

3.2.4 Amounts of refunds not paid or recovered and recovery still running

According to the information provided under Article 8(f) and (g) of Regulation (EU) No 817/2010 the major amounts of refunds not paid or recovered were dealt with by Germany. In total Germany was involved in 197 973 EUR not paid or recovered refunds, which is 43,18% of the total EU amount of 458 468 EUR composed of 453 718 EUR not paid and 4 750 EUR recovered, and excluding recovery still running.

Table 4: Overview on refunds not paid, recovered or still running

Mem ber State	Refunds not paid (EUR) [1]	Refunds recovered (EUR) [2]	Recovery of refunds still running (EUR) [3]	Total refunds not to be paid (sum [1] to [3] in EUR)	Refunds paid* (EUR)	Total refunds requested [paid* + not paid (EUR)]	refunds not to be paid as % of total refunds requested
AT	23 793			23 793	1 235 611	1 259 404	1,89%
CZ	4 381			4 381	116 132	120 513	3,64%
DE	197 973			197 973	3 854 866	4 052 839	4,88%
EE	4 053			4 053	41 365	45 418	8,92%
FI	636			636	77 676	78 312	0,81%
FR	69 594			69 594	622 760	692 354	10,05%
HU	8 387			8 387	772 561	780 948	1,07%
NL	37 813	4 750		42 563	1 534 853	1 577 416	2,70%
PL	89 317			89 317		89 317	100,00%
SE	3 797			3 797		3 797	100,00%
SK	9 175			9 175	426 548	435 723	2,11%
UK	4 799			4 799		4 799	100,00%
Total	453 718	4 750	0	458 468	8 682 372	9 140 840	5,02%

* EAGGF financial year starts on 16 October of one year and ends on 15 October of the following year.

The Regulation provides for either partly or total non-payment of the refunds (Articles 5 and 6) or recovery of payment if it is established after payment that Regulation (EC) No 1/2005 has not been complied with (Article 7).

A comparison from 2006 to 2010 as regards the amount involved shows the following result:

The amount of unpaid or recovered refunds had been decreasing between 2006 and 2008. In 2009 the amount of unpaid or recovered refunds increased. Another increase followed in 2010 – from 268 842 EUR in 2009 unpaid and recovered refunds to 458 468 EUR in 2010 (excluding recovery still running). In 2009 the amount of refused and recovered (including recovery still running) represented 2,58% of the refunds requested; in 2010 this was 5,02% of the total amount of refunds requested.

Table 5: Comparison of unpaid or recovered declarations, animals and refunds (2006–2010)*, **

	Partly or completely non payment	Payment definitively recovered	Total
Declarations 2010	239	18	251
Animals 2010	3 192	42	3 234
EUR 2010	453 718	4 750	458 468
Declarations 2009	95	32	127

Animals 2009	1 306	597	1 903
EUR 2009	190 065	78 777	268 842

Declarations 2008	91	21	112
Animals 2008	1344	565	1 909
EUR 2008	110 096	104 182	214 278

Declarations 2007	170	69	239
Animals 2007	2 781	1 138	3 919
EUR 2007	432 484	115 196	547 680

Declarations 2006	189	74	263
Animals 2006	1478	1 148	2 626
EUR 2006	365 063	276 150	641 213

* Does not include recovery still running;

** For the data available since 2002 see the previous reports.

3.2.5 The reasons for non-payment and recovery of refunds for live bovine animals in 2010

According to the requirements of Article 8(d) of Regulation (EU) No 817/2010 Member States communicated the information shown in table 6 and explanations below that table to the Commission on the reasons for the non-payment and the recovery of the refund for the animals referred to in Articles 8(b) and 8(c) of the same Regulation. According to Article 8(d) of Regulation (EU) 817/2010 Member States have to report the number of animals recorded under category B (animals that gave birth or aborted during transport), C (other animals not in conformity) or D (dead animals). Detailed information can be found in the following table and the summary per Member State.

Table 6:

Member State	Live animals exported with refunds	B (animals that gave birth or aborted during transport)		C (other animals not in conformity)		D (dead)		Total (B + C + D)	
		animals	% of live animals exported with refunds	animals	% of live animals exported with refunds	animals	% of live animals exported with refunds	animals	% of live animals exported with refunds
AT	7 786	1	0,013%	95	1,220%	24	0,308%	120	1,541%
DE	33 389	47	0,141%	1 131	3,387%	18	0,054%	1 196	3,582%
FI	621			4	0,644%	1	0,161%	5	0,805%
FR	2 762			444	16,075%	1	0,036%	445	16,112%
HU	4 697	1	0,021%	63	1,341%			64	1,363%
NL	16 566	13	0,079%	302	1,823%	4	0,024%	319	1,926%
Total EU	70 147	62	0,088%	2 039	2,907%	48	0,068%	2 149*	3,064%

* The total number of 2 149 animals covers only the specific welfare aspects under B, C and D of Annex I, II and III of Regulation (EU) No 817/2010. The total of 3 234 animals in table 5 covers all irregularities including administrative aspects.

3.2.5.1 EXPLANATIONS PROVIDED BY MEMBER STATES ON THE REASONS FOR THE NON-PAYMENT AND THE RECOVERY OF THE REFUND

CZECH REPUBLIC

Non-payment of the refund:

- The refund for the entire export declaration (28 animals) was not paid at all because 3 out of the 28 animals were not in conformity according to the unloading control in the third country;

ESTONIA

- The reason for the non-payment was that animals were not pure-bred breeding animals;

FINLAND

Non-payment of the refund:

- 1 animal died during transportation,
- 2 animals were too old, not in CN code 0102,
- 2 animals had been injured during transportation;

FRANCE

- For 214 animals the incomplete veterinary report from the exit point of the EU,
- For 230 animals the veterinary report not received yet from the exit point of the EU,
- 1 animal died during transport,
- 20 heifers aborted during the quarantine at the destination,
- 14 heifers aborted after the quarantine at the destination,
- 9 heifers died in quarantine at the destination;

GERMANY

- Non-compliance with journey times and resting periods,
- Animals that died or gave birth during transport,
- Veterinarians' remarks in the check reports in accordance with Annexes I to III,
- Check reports not submitted or not submitted in time,
- Check reports not formally recognised,
- Export via an unauthorised exit point,
- Discrepancies between journey log and check report;

HUNGARY

Non-payment of the refund

- :In Section B of the check report drawn up in accordance with Annex III of the Regulation (EC) No 639/2003 was shown that 1 animal calved during transport,
- The veterinarian of the exit point in Poland stated in her report that 1 heifer broke her hip bone during the transport, the heifer was put down in Poloski,
- The veterinarian of the final destination in Russia remarked that due to an accident that occurred during the unloading procedure, two heifers were badly wounded,
- The veterinarian of the final destination in Kazakhstan remarked that 1 heifer had a dislocated hip joint, the heifer had to be slaughtered,
- In the case of two heifers more than 90% of the expected gestation period has already passed,
- For 57 animals the veterinarian of the final destination in Russia remarked in her report that the equipment of the means of transport and the health condition of the animals were not considered satisfactory;

THE NETHERLANDS

Non-payment of the refund:

- In the case of 6 declarations, 9 animals had given birth before unloading in the third country of final destination,
- In the case of 2 declarations, 2 animals had not been released for free circulation in the country of destination,
- In the case of 1 declaration, 1 animal had died in EU customs territory during transport,
- In the case of 9 declarations with a total of 271 animals, the declaration as referred to in Article 2 of Regulation (EC) No 639/2003 had been marked unsatisfactory by the Polish veterinarian on the associated T5 control copies as the conditions of transport were found to be unsatisfactory in terms of the provision of feed and water,
- In the case of 2 declarations, 2 animals were injured upon unloading in the country of final destination and therefore Regulation (EC) No 1/2005 was not complied with,
- In the case of 1 declaration, 1 animal had aborted during transport;

Recovery of the refund:

- In the case of 6 declarations with a total of 24 animals, Regulation (EC) No 1/2005 was not complied with as the maximum gestation period of 252 days had been exceeded,
- In the case of 1 declaration, 1 animal had aborted during transport,
- In the case of 1 declaration, for 1 animal Regulation (EC) No 1/2005 was not complied with due to the animal having been found to be sick by the Algerian vet,
- In the case of 3 declarations with a total of 4 animals, for 1 animal Regulation (EC) No 1/2005 was not complied with as it was found to be injured upon unloading in the country of final destination,
- In the case of 2 declarations, 2 animals had given birth before unloading in the third country of final destination,
- In the case of 1 declaration, 1 animal had died in EU customs territory during transport;

POLAND

- Shortage of documentation confirming the protection and welfare of animals during transport;

SLOVAKIA

- 61 heifers – the journey logs were not kept,
- 2 heifers – older than 30 months,
- 1 heifer – less live weight equal to or greater than 250 kg,
- 1 heifer – had right back a broken hoof joint, the heifer had to be slaughtered;

SWEDEN

- No report regarding checks in third country has been received for 27 animals;

UNITED KINGDOM

Non-payment of the refund:

- In the case of 1 declaration concerning 30 animals customs and veterinary formalities were not completed correctly.

3.2.6 PENALTIES (Article 8 (e) of Regulation (EU) No 817/2010)

Austria, France, Germany, Hungary and the Netherlands communicated that they applied penalties.

Austria:

1 case for 29 animals and amount of 4 380,50 EUR of penalties applied according to Article 6(2) of Regulation (EU) No 817/2010;

France:

Amount of 295,78 EUR of penalties applied for 3 animals according to Article 6 of Regulation (EU) No 817/2010;

Germany:

5 cases for 10 animals and 1 496,24 EUR of penalties imposed according to Article 6(1) of Regulation (EU) No 817/2010;

3 cases for 81 animals and 11 857,03 EUR of penalties imposed according to Article 6(2) of Regulation (EU) No 817/2010;

Hungary:

2 cases for 4 animals and 548,56 EUR of penalties imposed according to Article 6 of Regulation (EU) No 817/2010;

The Netherlands:

2 penalties were imposed as referred to in Article 6(1) of Regulation (EU) No 817/2010. This concerns a total of 4 animals, the unpaid refund amounts to 546,88 EUR;

6 penalties were imposed as referred to in Article 6(2) of Regulation (EU) No 817/2010. This concerns a total of 159 animals, the unpaid refund amounts to 22 862,33 EUR.

3.3 Clearance of accounts by the Commission

The system of checks on exports of live cattle for breeding - according to Regulation (EC) No 639/2003 repealed by Commission Regulation (EU) No 817/2010 and with reference to Regulations (EC) Nos. 882/2004, 1/2005 and 3821/1985 - was examined during one audit enquiry in 2010. The enquiry took account of findings made during earlier missions performed by DG AGRI and DG SANCO and gave cause for serious remarks from DG AGRI.

One financial correction was imposed for a former inquiry and one inquiry was closed without correction. A third, more recent inquiry, is reaching its final stage.

3.4. COMMUNICATION OF IRREGULARITIES BY MEMBER STATES

The irregularities with a financial impact greater than 10 000 EUR (amount unduly paid, recovered or not yet recovered) have to be communicated by the Member States to the Commission (OLAF), pursuant to Commission Regulation (EC) No 1848/2006.

In the financial years 2006-2010, Member States reported 13 cases of irregularities concerning export refunds for live bovine animals (budget post 05 02 13 04). The total amount affected was 232 663 EUR.

The cases were reported by the Netherlands (7), Portugal (3), Austria (2) and Denmark (1).

ANNEX 1

Table 7

Annual report 2010, Regulation (EU) No 817/2010 - overview in terms of refunds in EUR												
Member State	Article 8(a) total number		Article 8 (b) refund not paid		Article 8 (b) refund partially not paid		Article 8 (c) refund recovered		Article 8 (f) refund not paid		Article 8 (g) recovery still running	
	declarations	animals	declarations	animals	declarations	animals	declarations	animals	€not paid	€ recovered	declarations	€ amounts
AT	259	7 786	21	149					23 793			
CZ	32	1 032	1	28					4 381			
DE	1 055	33 389	42	1239	70	75			197 973			
EE	16	476	6	32					4 053			
FI	17	621			3	5			636			
FR	162	2 762	36	482			4	9	69 594			
HU	144	4 697	8	64					8 387			
NL	504	16 566	21	286			14	33	37 813	4 750		
PL			23	710					89 317			
SE			1	27					3 797			
SK	94	2 818	2	61	4	4			9 175			
UK			1	30					4 799			
Total	2 283	70 147	162	3 108	77	84	18	42	453 718	4 750	0	0

ANNEX 2

Table 8

Annual report 2010, Regulation (EU) No 817/2010 - overview in terms of animals										
Member State	Article 8 (b) refund not paid		Article 8 (b) refund partially not paid		Article 8 (c) refund recovered		Total animals 8(b)+ 8(c)	Total animals exported (see table 3)	Total animals paid, recovered + not paid	% animals, refund not paid or recovered
	declarations	animals	declarations	animals	declarations	animals				
AT	21	149					149	7 786	7 935	1,88%
CZ	1	28					28	1 032	1 060	2,64%
DE	42	1 239	70	75			1 314	33 389	34 703	3,79%
EE	6	32					32	476	508	6,30%
FI			3	5			5	621	626	0,80%
FR	36	482			4	9	491	2 762	3 253	15,09%
HU	8	64					64	4 697	4 761	1,34%
NL	21	286			14	33	319	16 566	16 885	1,89%
PL	23	710					710		710	100,00%
SE	1	27					27		27	100,00%
SK	2	61	4	4			65	2 818	2 883	2,25%
UK	1	30					30		30	100,00%
Total	162	3 108	77	84	18	42	3 234	70 147	73 381	4,41%