

I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 9/2003

concerning the system for setting the rates of subsidy on exports of agricultural products (export refunds), together with the Commission's replies*(pursuant to Article 248(4), second subparagraph, EC)**(2003/C 211/01)*

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LIST OF ABBREVIATIONS

DG AGRI	Commission's Directorate-General for Agriculture
CMO	common market organisation
WTO	World Trade Organisation
WMP	whole milk powder
SMP	skimmed milk powder
fob	free on board

SUMMARY

- I. Export refunds are subsidies paid to exporters to enable agricultural products to be exported onto the world market.
- II. The cost to the Community budget is significant: in 2000 the expenditure amounted to 5,6 billion euro and in 2001 expenditure amounted to 3,4 billion euro.
- III. The audit's objective was to evaluate the method used by the Commission in setting export refund rates. The four most important product groups for export refunds were selected: meat and meat products, milk and milk products, cereals and sugar. Together these four product groups account for more than 85 % of export refund expenditure.
- IV. Maximising exports is not an objective. The Commission focuses its market management on achieving stability on the internal market at a price level which avoids products going into the more expensive intervention system. Export refunds are one of the tools to achieve this objective.
- V. Although, in general, ample market information was available to the Commission, it was not always up-to-date, complete or objective. The use made of the information, the impact on the refund rates actually set, was often not clear. The Commission stresses the point that setting the rates is the result of a complex assessment. It does not, however, define market parameters to be used in this assessment.
- VI. In the execution of rate setting, the Commission did not specify its working methods or provide for systematic and coherent explanations of the rates set. The management checks referred to in the Commission reply were not systematically evidenced.
- VII. Export refund rates are intended to bridge the gap between EU and world prices to the extent necessary. The Commission estimates this gap for milk products, cereals and sugar on the basis of indicative prices or quotations. It does not do so for beef products because it maintains that there are no world prices. For the most part, the Commission's calculations indicate that the estimated gap is not exceeded by the refund. However, for significant periods covered by the audit, the Commission's estimates show that the EU price net of refund is below the world price for certain milk products.

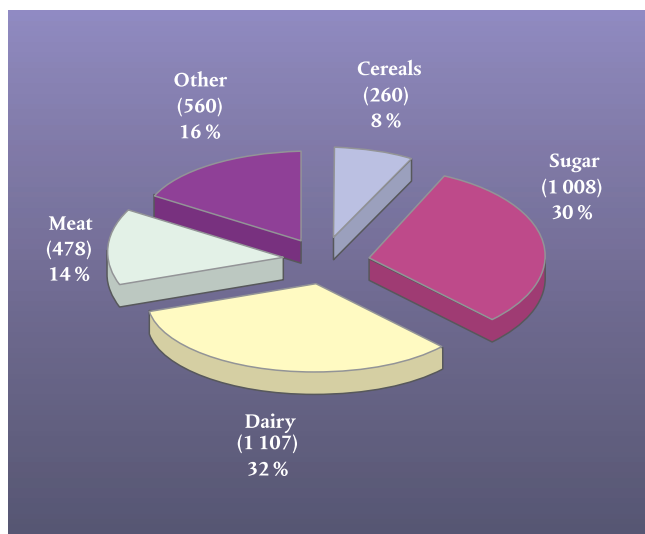
WHAT ARE EXPORT REFUNDS AND HOW ARE RATES SET?

1. Export refunds are paid to exporters of agricultural products to countries outside the EU. Their main purpose is to enable agricultural products to be marketed in these countries by compensating exporters for the difference between EU internal market prices and the lower prices normally prevailing on the world market.

2. Expenditure on export refunds has decreased under WTO agreements. Their future depends on international trade negotiations. The cost to the Community budget is still significant: in 2000 the expenditure amounted to 5,6 billion euro and in 2001 expenditure amounted to 3,4 billion euro.

Illustration 1

Distribution of export refunds by product group for the 2001 EAGGF year



3. The cost to the budget is determined by two factors: the volume of exported products and the export refund rate for the various products set by the Commission. The Commission controls the volume of product exported by means of export licences.

4. The refund rate for certain products is significant in comparison with the world market price and in some cases, notably sugar, it is considerably more than the world price. Table 1 compares a selection of the rates tested with world prices.

Table 1

Comparison of refund rates and world prices

Product	Date	EU price (euro per tonne ⁽¹⁾)	World price (euro per tonne ⁽¹⁾)	Refund rate (euro per tonne ⁽²⁾)	Refund rate as % of world price
Common wheat	6.1.2000	133,14	90,87	41,49	46
White sugar	3.5.2000	631,90	213,25	488,30	229
Butter	27.12.2000	3 429,00	1 396,00	1 700,00	122
Skimmed milk powder	14.4.2000	2 259,00	1 566,00	722,00	46
Cheddar	27.4.2000	2 949,00	1 870,00	1 175,40	63

⁽¹⁾ Prices as used by the Commission.

⁽²⁾ As explained in the report, because the Commission has to use indicative prices, there is not an exact correspondence between EU prices on the one hand and the sum of world prices and export refunds on the other.

Source: DG AGRI.

5. The market divisions of the Commission's Directorate-General for Agriculture (DG AGRI), which are organised by product group, are responsible for proposing export refund rates for each eligible product. Proposals are presented to the Management Committee concerned (representatives of the Member States), which is required to take a vote on each proposal. If the committee votes against the Commission's proposal by qualified majority, which in practice rarely happens, the proposal is referred to the Council. Otherwise the Commission adopts the proposed rates.

6. In certain product sectors (e.g. beef and milk products), the rate is set periodically by the Commission without any tendering procedure, at a rhythm provided for by the regulation covering the CMO for the product concerned, at least every four weeks for milk products and at least every three months for beef. In addition, the Commission can modify the rates at any time when unexpected situations make immediate action necessary. In other product sectors (e.g. cereals and sugar) exporters are invited to participate in a tendering procedure for the export refund rate and the quantity to be exported at the tendered rate. The Commission decides a 'cut-off' rate; every tender with an export refund rate offer lower than the 'cut-off' rate is accepted.

THE QUESTIONS ADDRESSED BY THE AUDIT

7. This report examines the way the Commission manages the setting of export refund rates. It seeks to answer the key question:

- is the export refund rate set by the Commission in a rational, coherent and sound way?

and the following underlying questions:

- are the factors taken into account in fixing the refund rate relevant and complete?
- are the underlying data sources relevant, complete, reliable, valid and up to date?

8. The observations in this report are based on evaluation of the Commission's objectives and systems for setting the refund rates and evaluation of minutes of Management Committee (MC) meetings; on interviews with officials responsible for setting export refund rates and on analyses of documentation available in the Commission's rate-setting files. A sample of 38 rates from the important product groups (cereals, sugar, beef and dairy products) was selected for detailed testing. The following products were concerned: common wheat, white sugar, beef, butter, skimmed milk powder (SMP) and cheese. The period of reference for transaction testing was 1 January 1999 to 31 July 2001. The audit was carried out between October 2001 and January 2002. Detailed findings were communicated to the Commission between December 2001 and January 2002.

9. The Court's last audit on this subject was in 1990 ⁽¹⁾. The main conclusions regarding the way the export refunds were set were that documentation of the facts, the Commission's consideration of the facts, the decisions taken and the outcome were not maintained, and, as a consequence, independent third-party audit and management control were virtually impossible.

Extracts from the Court's last audit report on this subject in 1990:

- ... the whole [rate-setting procedure] is subject to the Commission's judgement or discretion ... This would not necessarily be a point of concern if adequate documentation were maintained of the facts, the Commission's consideration of the facts, the decisions taken and the outcome.
- However, this is not the case and the consequences are serious for independent control by third parties and for management.
- The Court has been unable to gather from the Commission's records the information necessary for more than the most elementary evaluation of many aspects of export subsidies.
- ... it is unclear how management can function properly and the various Management Committees can act as an effective check on the Commission.
- In its replies the Commission took the view that sufficient documentation was available for important decisions and that it did not agree that it was unclear how management could function properly.

10. The European Parliament's Committee on Budgetary Control concluded in its report on the Court's Special Report that: 'For reasons of public accountability, the Commission's internal decision-making procedures must be recorded and justified in writing so that its reasoning can be followed by the monitoring bodies at any time' ⁽²⁾.

RATES MAY COMPENSATE FOR THE DIFFERENCE BETWEEN WORLD AND EU PRICES TO THE EXTENT NECESSARY TO FACILITATE EXPORTS

11. The market organisation regulations for the various product groups ⁽³⁾ stipulate that different products may benefit from an export refund aid based on the difference in price of the product on the internal EU market and the world market, to the extent

⁽¹⁾ Special Report No 2/90 on the management and control of export refunds (OJ C 133, 31.5.1990).

⁽²⁾ Report of the Committee on Budgetary Control on the management and control of export refunds (Special Report No 2/90) (PE 151.096/fin).

⁽³⁾ Regulation (EEC) No 1766/92 of 30 June 1992 on the CMO in cereals (OJ L 181, 1.7.1992, p. 21); Regulation (EC) No 2038/1999 of 13 September 1999 on the CMO in sugar (OJ L 252, 25.9.1999, p. 1); Regulation (EC) No 1254/1999 of 17 May 1999 on the CMO in beef (OJ L 160, 26.6.1999, p. 21); Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products (OJ L 160, 26.6.1999, p. 48).

necessary to enable them to be exported. Factors to be taken into account when setting the refund within this limit are the price difference, stability on the internal market, WTO constraints, future market trends and the economic aspect of the exports.

THE COMMISSION'S APPROACH TO MARKET MANAGEMENT

12. The Commission focuses its market management on achieving stability on the internal market at a price level which avoids products going into the more expensive intervention system. Export refunds are considered to be one of the tools to achieve this objective. Maximising exports is explicitly not an objective of the market management.

13. Although the various market divisions are confronted with similar regulatory considerations to be taken into account in setting export refund rates, there are considerable variations in practice, often reflecting the nature of the different markets, which are discussed in paragraphs 19 to 38 below. Some divisions set the rate by use of a tendering system, others do so directly. The periodicity of rate changes varies from weekly to quarterly depending on the market sector. Both cereals and sugar are annual crops for which world market prices are readily available on a daily basis. Yet the cereals division bases its calculations on spot prices, and the sugar division uses future quotations. Where the cereals division uses an internal EU price based on information from market sources, the sugar division uses the intervention price for the same purpose. Only the beef division has a system for verifying internal EU prices on the spot. The milk, cereals and sugar divisions calculate the difference between indicative EU and world prices. The beef division does not. There may be valid reasons for such variations but there is no evidence of recent management analysis of the justification for them.

INFORMATION AVAILABLE

14. In setting export refund rates the Commission is an operator in markets where traders are continually looking to exploit changing market developments. The EU has an interest in ensuring a regular presence on world markets and in avoiding a limited number of important players taking over its market share. To achieve this aim, the Commission needs close contact with the trade and up-to-date information.

15. To meet its objectives and comply with the regulatory provision that the refund be set to the extent necessary within the difference between world and EU prices, the Commission should have information on world and EU internal prices and on the flow of exports. The latter is readily available to all market divisions in that data on requests for export licences have to be communicated to the Commission twice weekly (daily for milk products). Price data are more difficult to obtain, particularly those relating to world market prices. As described in the following paragraphs, the Commission has to rely on a variety of trade and trade publication sources for most of this information. This necessarily means that the Commission has difficulty in monitoring that the refund is within the limit of the difference between world and EU prices, particularly in the beef and milk sectors.

16. The nature and sources of world price data vary according to the market sector. For cereals, prices are obtained on a voluntary basis from traders, trade associations and the press; for sugar, the price is that quoted on the LIFFE (London International Financial Futures and Options Exchange); for key milk products, a range of world price quotations is available from sources such as the US Department of Agriculture (USDA); and for beef, although there are no world reference prices, information is available from the USA and Oceania (Australia and New Zealand) but not for the EU's main competitors (South America and India).

17. Similarly the nature and sources of data on EU internal prices vary according to the market sector. Beef and milk product prices are reported by Member States on a weekly basis. However, whereas beef prices are subject to periodic verification by the Commission on the spot, milk product prices are subject only to reasonableness checks in the Commission. Since some Member States do not communicate prices at all and others are late, the information available for milk products is also incomplete and not up to date. Prices reported both for beef and milk products vary considerably between Member States for the same product, which renders difficult the task of calculating the indicative, theoretical gap between EU and world prices (see *Table 2*). There are no guidelines as to how the EU internal price used for setting the refund rate should be calculated from source data (see paragraph 23).

18. In the cereals sector the Commission relies on the trade, trade publications and market data for its calculation of the EU internal price as it also does for world prices. The internal EU price used for sugar is the intervention buying-in price which has remained the same for five years.

Table 2

Annual average prices communicated to the Commission in 2000 by Member State

	(EUR/100 kg)				
	Butter	SMP	Gouda	Beef	Wheat
Belgium	318	255	325	186	129
Denmark	377	245		104	132
Germany	337	256	316	110	129
Greece	443			208	146
Spain	295	214		150	145
France	311	253		151	119
Ireland	295	230		115	
Italy	252			81	151
Netherlands	317	253	296	112	141
Austria	333	250	315		131
Portugal				163	146
Finland	305	229			138
Sweden	361	224	355		134
United Kingdom	304	279		143	143
Maximum price difference	191	65	59	127	32
in %	76	30	20	157	27

Source: Agricultural markets 5/2001 (doc. DG AGRI).

REFUND RATES SET PERIODICALLY

Beef

Characteristics of the market

19. The European beef sector has been hit by a number of crises over the past few years: the monetary crisis in Russia in 1998, the dioxin problem in 1999, Bovine Spongiform Encephalopathy (BSE) in 2000 and foot-and-mouth disease in 2001. As a result a 'normal market' situation has not existed. The main export



destinations are the less prosperous countries (Russia accounts for about 80 %). The rates for most beef products are derived from those set for carcasses. Beef exports are subject to WTO quotas, but at the current level this does not put constraints upon the trade.

Setting of the refund rate

20. Although it could be counter-productive for rate-setting methods to be transparent to the outside world in circumstances when operators will use this to anticipate, or manipulate, Commission decisions, they should be so to Commission management. Yet the relationship between the information available (requested quantities for advanced fixing of the refund rate; the level of the internal EU price for beef based on the Irish price) and the final level of the refund rate fixed is not clear. There were no guidelines concerning changes in the market situation which would warrant a change in refund rates (e.g. internal price levels, stocks, exchange rates, etc.). When refund rates are adjusted, neither the choice of products affected nor the extent of the adjustment is systematically clearly explained and justified. The Commission states that it cannot calculate the difference between world and EU prices because of the lack of world market prices

Photographs courtesy of USDA, Office for Official Publications of the European Communities, M. Rostam and P. J. Kavanagh.

and therefore has difficulty in monitoring the appropriate level of refund. Expenditure on export refunds has declined significantly, notably because of the impact of Agenda 2000 on internal EU prices, and the need to comply with the EU's commitments under the World Trade Agreement.

21. The effectiveness of a particular rate set is judged a posteriori by continuous monitoring of the level of demand for licences. There are, however, no explanatory notes of such action contained in the files, so that it is unclear on exactly what basis management control can take place and audit is possible.

Milk and milk products

Characteristics of the market

22. The dairy market covers a large number of different products. Some 400 are defined for refund purposes. Butter, SMP and cheese represent more than 50 % of milk products exported with refunds. The rates for butter, whole milk powder (WMP) and SMP are set individually. The rates for most cheeses are based on the rate for Edam. The export market for milk products has been affected by the same crises that have hit the beef market.



Setting of the refund rate

23. In contrast to the beef division, the dairy product division calculates the difference between the internal EU and world market price quotations and makes the comparison with the export refund rate on a weekly basis. The internal EU price used is not the weighted average of market prices reported by all Member States, but is the arithmetic average of prices reported by certain Member States, selected for reasons of representativity and timeliness of their price data for a given product (for example, prices in Germany and the Netherlands for butter). With the exception of butter, there are no guidelines for Member States defining whether or not elements such as transport costs should be included or excluded.

24. The main data source used by the Commission for world market price quotations ⁽¹⁾ provides two prices per region, a low and a high. The lower price is consistently used, thus increasing the calculated price difference (i.e. the theoretical refund).

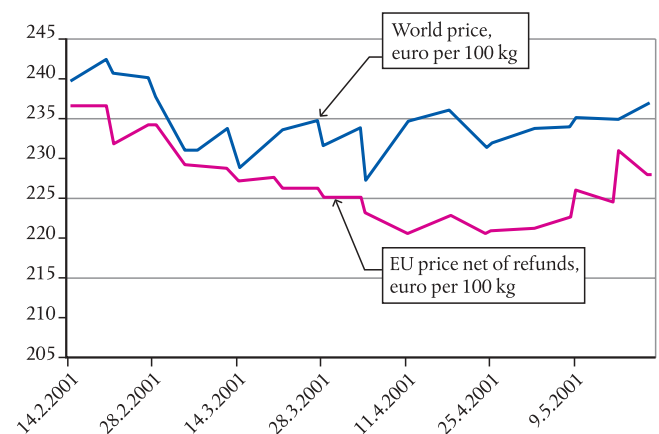
25. Although the Commission follows the price difference as described, there is no direct link between these calculations and the refund rate set. It is not clear from the files which of the other factors referred to in paragraph 11 are taken into account when setting the refund rate, or how this is done. There are no explanations for differences between the calculated theoretical rate and the rate actually proposed.

26. According to the Commission's analyses of indicative price data for the period covered by this audit, for the most part, the refund rates set were within the limit of the Commission's estimates of the difference between EU and world prices. However, there were a significant number of occasions when, for certain products, these estimates indicated that the EU price, after deducting refunds, was lower than the world price. The Commission justifies this by reference to conditions in the third-country markets concerned. For example:

- (a) during the period 14 February to 21 May 2001, the theoretical EU price net of refunds for SMP varied between 17 and 143 euro per tonne below the world price;

Illustration 2

Comparison of theoretical EU and world prices for SMP

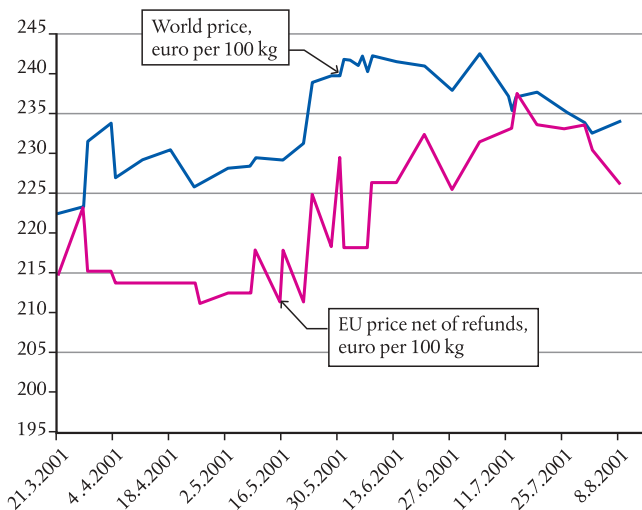


- (b) the theoretical EU price net of refunds for WMP remained below the world price from 28 March to 12 July 2001 by between 22 and 240 euro per tonne.

⁽¹⁾ USA Dairy News.

Illustration 3

Comparison of theoretical EU and world prices for WMP



The method for setting refund rates for cheese is complicated, inconsistently applied and has not been updated

27. There is no coherent link between the rates set and market prices. In 1997 the Commission calculated the theoretical export refund rates for most cheeses on the basis of the equivalent quantities of milkfat and SMP used in their manufacture and the rates in force for those products at the time. The most important pilot cheese used for this calculation was Edam and the theoretical rates for most other cheeses were derived from the Edam calculation. However, as the resulting theoretical rate for Edam was considered too high in comparison with the existing rate, the existing rate was maintained but the proportions of that rate derived from the fat (butter) and dry-matter (SMP) contents were calculated. Theoretical rates for all other cheeses were then derived from this corrected calculation for Edam. However these theoretical rates were not consistently adopted. In some instances the calculated rate was adopted, in others the existing rate, and for some cheeses the rate was increased by bonuses of 10 %, 15 % or 20 %. These bonuses were eliminated in 1998.



28. The practical usefulness of many of the detailed calculations is thus questionable. None of the original and fewer than half of the corrected theoretical rates were used and subsequent changes in butter and SMP rates have not been reflected in the cheese rates.

REFUND RATES SET BY TENDER

Cereals

Characteristics of the market

29. The largest grain exchange for common wheat is in Chicago, USA. Prices quoted on this exchange are considered to be the most representative (world) prices. Prices are quoted in general for futures (contracts to be fulfilled at a certain time in future). Common wheat exists in a variety of qualities (and thus prices), from high-quality breadmaking wheat to low-quality feed wheat. There is no worldwide or even European classification system for wheat; each country has its own system, so wheat from different origins is not directly comparable.



Setting of the refund rate

30. For wheat a maximum refund rate is set on the basis of a tender. The arrangements for setting the rate are obscure in a number of respects:



- (a) common wheat exists in a range of qualities, whose relative prices can be expected to reflect differences in quality and demand. The refund is in principle calculated on the difference between EU internal prices for the French 'tout venant' category and the nearest equivalent non-EU wheat, American Soft Red Winter 2 (SRW2). On five of six occasions audited, however, the Commission maintains that higher qualities of wheat than 'tout venant' were used because on these occasions they were closer in quality to SRW2;
- (b) the Commission asserts that exports to African, Caribbean and Pacific (ACP) countries normally involve high-quality wheat. To calculate the refund rates the Commission compares the price of high-quality (breadmaking) EU wheat to compare with US SRW2, instead of using an equivalent breadmaking quality on the world market. The result is a higher refund rate. Over 80 % of wheat to ACP countries is exported from France. In two of the five ACP rates examined, for which tenders of 19 000 tonnes were accepted, the rate fixed exceeded even the calculated difference between the world prices for US SRW2 wheat and EU prices for French breadmaking wheat. Given the origin of these exports, there must be some doubts as to whether they are in fact of the quality assumed by the Commission;
- (c) until the 2001 harvest, refunds on common wheat to ACP countries benefited from a flat rate supplement varying between 0,02 and 7,63 euro per tonne in the different market years covered by this examination;
- (d) the Commission's calculations are based on the 'spot' free on board (fob) price (the price of a contract to be fulfilled on the day of the setting of the refund), not on the future price. The world and the EU prices used in the calculation of the theoretical refund are the averages, for the day in question, of prices communicated by the trade, producer organisations, etc. However, the relationship between the calculations performed and the final rate set is not clear.

Illustration 4

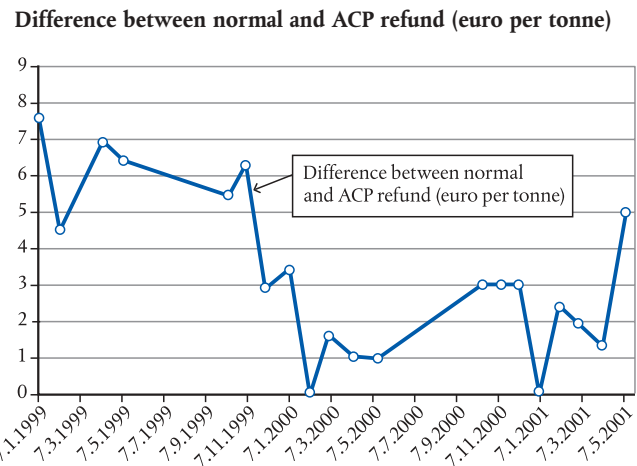
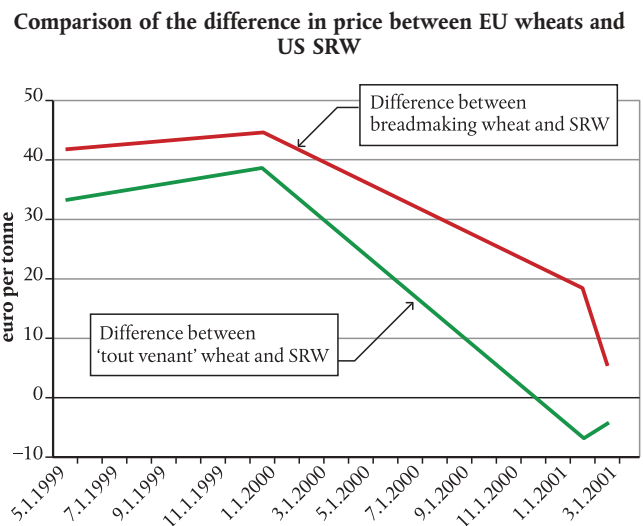


Illustration 5



31. The refund rate adopted is increased for certain months of the year by increments designed to compensate for storage costs and to encourage the traders to export grain left at the end of the harvest year. Since the Commission has already determined the fob prices both for the world market and the internal market, and the export refund is defined as the difference between these two prices, the addition of the monthly increment appears to be unjustified.

Sugar

Characteristics of the market

32. The sugar market is managed, among other instruments, by the use of a production quota, which, combined with a preferential import quota for sugar from the ACP countries, is responsible for a substantial oversupply of the internal market⁽¹⁾. This surplus (created by the production of white sugar within the quota and from ACP imports) is exported with the aid of export refunds.

⁽¹⁾ See also Special Report No 20/2000 concerning the management of the common organisation of the market in sugar (OJ C 50, 15.2.2001).

Any Community production over and above the production quota (so called 'C' sugar) has to be exported without the benefit of export refunds. The major product, in this group, exported from the EU is white (refined) sugar.



Setting of the refund rate

33. The sugar market differs from the other three product markets in that it is heavily controlled by the CMO. As a result, the expected quantity to be exported is known to the Commission at the beginning of the marketing year and serves to draw up an export plan for the whole year. The setting of refund rates is highly transparent. The Commission uses the intervention price adjusted with a flat rate amount for fob costs, transport, bagging and traders margin to arrive at an artificial internal price. The figures used for these elements have not changed in the past years, so the internal price factor in the calculation is more or less fixed and is public knowledge.



34. For the world market price the quotation on the LIFFE is taken. Contrary to the cereals sector, which is based on the spot price (price of the day), the price retained for sugar is that for future quotations. Usually the two-month future quotation is taken.

35. In the past a fixed amount of 0,02 euro was deducted from the difference between these two prices to arrive at the maximum refund to be accepted under the tendering procedures in order to avoid overshooting the price differential. Nowadays the amount of the reduction varies, but only within a small bandwidth.

36. The use of this methodology meant that tendering exporters knew in advance the exact level of the maximum refund that the Commission would accept because all of the elements of the calculation and the methodology were (and are) known to the trade. Even with the introduction of the variable reduction the trade is still able to define the most probable level of refund to be accepted.

37. Given that the method and elements of the procedure to set the maximum refund are public knowledge and that the sugar market is dominated by a very small number of large companies, the tendering system, designed to set export refunds in the most economical way for the Community budget, does not function as a real tendering system in the sense that traders are in meaningful competition with each other. A rate set directly by the Commission would not differ significantly from that set by the tendering system, which is more cumbersome. Another factor preventing the tendering system from functioning properly is the intervention price which provides a floor for tenders. The Commission should consider carrying out a cost/benefit analysis of the option of fixing the rate directly or by tendering.

38. The level of the refund for sugar is significant. For the samples audited the accepted refunds were in the range of 40 to 50 euro per 100 kg, which is about double the level of the world price. 'C' sugar has to be exported without the benefit of export refunds, so it would be expected that the production of this type of (over quota) sugar would be small. Over the past years, however, the production of 'C' sugar has varied between 11 % and 21 % of quota production, which equals in some years the quantity of sugar that is exported with the aid of export refund. This calls into question the substantial level of the aid granted to the export of quota sugar, bearing in mind that export refunds should only be granted to the extent necessary to enable the product to be exported⁽¹⁾. In the 2000 EAGGF year refunds on sugar amounted to some 1 400 million euro.

⁽¹⁾ Article 18 of Regulation (EC) No 2038/1999 of 13 September 1999 (OJ L 252, 25.9.1999, p. 1).

CONCLUSIONS

39. The market organisation regulations for the various product groups ⁽¹⁾ stipulate that different products may benefit from an export refund aid based upon the difference in price of the product on the internal EU market and the world market, to the extent necessary to enable them to be exported. Factors to be taken into account when setting the refund within this limit are the price difference, stability on the internal market, WTO constraints, future market trends and the economic aspect of the exports. The Commission estimates the difference between EU and world prices for milk products, cereals and sugar on the basis of indicative prices or quotations. It does not do so for beef products because it maintains that there are no world prices. For the most part, the Commission's calculations indicate that the gap is not exceeded by the refund. However, for significant periods covered by the audit, the Commission's estimates show that the minimum EU price net of refund is below the world price for certain milk products. While the Commission disposes of most of the information necessary, some of it is incomplete and/or not up to date (see paragraphs 14 to 18) and the use of that information cannot be systematically linked to calculations of proposed rates (see paragraphs 1, 18 and 25). In the beef and milk product sectors explanations for the rates proposed were insufficiently documented. There are no guidelines on rate-setting procedures (see paragraphs 20 and 23). There is no coordination between the responsible market divisions and no evidence of recent management analysis of the reasons for variations in practice between market divisions (see paragraph 13). The Commission states that it carries out management checks. There is, however, no systematic written evidence of such. The overall conclusion therefore remains the same as in the Court's last report on this subject, that there is still a lack of demonstrable coherence in the rate-setting procedures for milk products, beef and to a lesser extent cereals. Independent third-party audit is very difficult. However, subsequent to this audit, in its Annual Activity Report for DG AGRI of 1 May 2002, the Commission accepted that there was a need to

strengthen internal controls over the quality of parameters for setting refund rates.

40. The Court notes that, as a result of this audit, the Commission:

- (a) is reviewing the rate-setting procedures ⁽²⁾;
- (b) is drawing up internal guidelines with a view to making the procedures more coherent and to ensure that rate changes are timely;
- (c) will examine the possibility of verifying EU internal prices for milk products reported by Member States to the Commission periodically in Member States along lines similar to those applied in the beef sector (see paragraph 12);
- (d) will ensure that rates proposed are clearly justified and supported with all of the relevant source information;
- (e) will clearly evidence management checks of refund rate proposals;
- (f) will review the need for monthly increments for cereals with a view to their abolition;
- (g) will consider carrying out a cost/benefit analysis of the option of fixing the rate directly or by tendering;
- (h) will review certain existing rates to ensure that they are at the appropriate level (e.g. sugar and cheese).

This Report was adopted by the Court of Auditors in Luxembourg at its meeting of 5 June 2003.

For the Court of Auditors

Juan Manuel FABRA VALLÉS

President

⁽¹⁾ Regulation (EEC) No 1766/92 of 30 June 1992 on the CMO in cereals (OJ L 181, 1.7.1992, p. 21); Regulation (EC) No 2038/1999 of 13 September 1999 on the CMO in sugar (OJ L 252, 25.9.1999, p. 1); Regulation (EC) No 1254/1999 of 17 May 1999 on the CMO in beef (OJ L 160, 26.6.1999, p. 21); Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products (OJ L 160, 26.6.1999, p. 48).

⁽²⁾ As a result of this audit the Commission has set up a working party on export refunds. One of its principal tasks will be to carry out a critical examination of the systems in the different market sectors and, if appropriate, to recommend structural improvements.

THE COMMISSION'S REPLIES

SUMMARY

II. The attached table (Trend in EAGGF Guarantee Section expenditure for export refunds by sector (in EUR million)) clearly shows the substantial (66 %) reduction in export refunds as a share of the overall agriculture budget from 1993 to 2002.

Table

Trend in EAGGF Guarantee Section expenditure for export refunds by sector

(in EUR million)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002 ⁽¹⁾
Arable crops	2 789	1 513	1 093	313	532	429	883	824	260	99
Sugar	1 531	1 377	1 312	1 230	1 116	1 266	1 593	1 439	1 008	1 168
Olive oil	69	53	38	59	43	25	3	0	0	0
Fruit and vegetables	187	217	240	98	84	58	41	46	51	46
Products of the wine-growing sector	100	80	37	41	60	41	27	22	23	24
Tobacco	36	50	35	2	0	0	0	0	0	0
Other sectors — rice	59	19	49	33	64	50	31	38	39	41
Milk and milk products	2 288	1 927	2 267	1 605	1 753	1 427	1 439	1 671	1 107	1 160
Beef/veal	1 711	1 708	1 761	1 559	1 499	775	595	661	363	387
Pigmeat, eggs and poultrymeat	484	499	319	241	152	165	386	348	116	104
Non-Annex I (including spirits)	744	631	574	494	569	556	576	575	439	414
Food aid	160	86	78	29	15	35	30	25	9	6
Export refunds total	10 159	8 161	7 802	5 705	5 887	4 826	5 603	5 649	3 412	3 449
Expenditure EAGGF-Guarantee ⁽²⁾	34 369	32 176	33 980	37 221	38 326	36 880	37 273	36 178	37 093	39 074
Export refunds/Expenditure EAGGF (%)	29,6	25,4	23,0	15,3	15,4	13,1	15,0	15,6	9,2	8,8

⁽¹⁾ 2002 (provisional figures).

⁽²⁾ Heading 1a, except for veterinary and phytosanitary measures and fisheries.

V. The Commission would stress that the mechanisms used to calculate refunds (tenders or otherwise) in the four sectors covered are different: bulk products (cereals, sugar) and processed products with value added (meat, milk products). The special features of each sector are illustrated in particular in the Council regulations for the specific product groups.

The difficulties in pinpointing a 'world price' are best illustrated by the dairy sector (see paragraph 28).

As far as the relationship between the prices is concerned, it should be noted that no precise gap between the internal and the external prices exists. They are rather price brackets and the choice of the gap selected is determined by a combination of the balance of the internal market, the prospects for change and 'WTO/budget' constraints.

Furthermore, the time for consideration before the Commission accepts applications for refunds allows it rapidly to correct the refund as soon as the quantities in question exceed the norm.

Information used for the fixing of export refunds is the most recent available; in certain sectors, up-to-date commercial information is practically impossible to obtain. Information can never be complete without the full contract details but, on the other hand, information communicated by operators may be subjective. Furthermore, there is a clear advantage in pursuing a certain degree of stability in the rate of refunds not fixed by tender procedure.

VI. The fixing of the refund rates are supported by analysis and management checks are part of the standard procedure. All fixings are prepared in a meeting with the Director-General and the opinion of a Management Committee is sought by the Director responsible for the sector concerned (see paragraph 40(d) and (e)).

The improvements in the working methods in the field of fixing export refunds formalised by the Commission on 10 July 2002 correspond to the recommendations made by the Court.

VII. The level of refund set cannot simply be the result of a difference between two prices or ranges of prices; other factors have to be taken into account: market balance, WTO commitment, extraordinary events, anticipated changes in the EU or world market situations.

WHAT ARE EXPORT REFUNDS AND HOW ARE RATES SET?

2. The attached table (Trend in EAGGF Guarantee Section expenditure for export refunds by sector (in million euro)) shows that export refunds as a total share of EAGGF Guarantee Section expenditure have decreased from almost 30 % (EUR 10,2 billion) in 1992 to less than 9 % (EUR 3,4 billion) in 2002. The reduction is attributable to the post-1992 reforms, and this remains Commission policy.

4. Certain prices are used by the Commission from the range of internal and external prices, but other parameters have to be taken into consideration. Therefore, the setting of refund rates is not a precise mathematical exercise.

The last column in Table 1 (Refund rate as % of world price) simply shows that to maintain stable Community agricultural prices, the refund must increase when world prices fall and vice versa. The result is that a low world price inevitably leads to a high 'Refund/World price' ratio.

5. In addition to the market division, there are other departments involved, including those responsible for budget, international relations, trade mechanisms and legal services, as well as senior management.

6. It should be emphasised that in the beef sector the Council has given priority to refunds being fixed periodically (Article 33(3) of Council Regulation (EC) No 1254/1999). Only in addition and

for limited quantities may a tendering procedure be applied but, furthermore, only for products for which that procedure seems appropriate.

Refunds for beef are to be fixed at least once every three months, which means that alterations may be made within that period where circumstances so justify, most often following the Management Committee procedure. A twice-weekly follow-up is carried out. This situation for milk is similar. A monthly fixing is preferred. A tender procedure may be used for fixing refunds for bulk butter and bulk SMP. Applications for licences are monitored daily.

THE QUESTIONS ADDRESSED BY THE AUDIT

9 and 10. The Commission considers that measures to improve the internal decision-making procedure and record keeping have been put in place since the Court's audit in 1990. For most sectors, export refunds have been based on a brief, usually in writing and containing the relevant facts; the results have been filed. Furthermore, with effect from January 2003, this is done for all sectors, and includes a recording of the justification for the rate(s) set.

10. The rate-setting administrative procedures have been substantially improved since the last Court of Auditors report. The facts underlying decisions are better documented, including internal and external price ranges for the basic products, daily data on prefixings, monthly targets for a number of products, monthly

data on actual EU and important competitor exports and imports by some important importing countries and exchange rates.

These and other relevant documents were discussed weekly and the appropriate staff in DG AGRI were informed of the conclusions. When changes were considered necessary the proposals were worked out in these meetings and they were put forward for agreement to the relevant departments. All of these documents were made available to the Court.

A statement of reasons was drawn up for the amendment of export refund levels.

Decisions taken to modify or to maintain refund levels were always published and the outcome was always reflected in the level of applications for licences, the exports carried out, the internal market balance and prices.

Proposals were presented in detail together with the motivation to the delegates of Member States in the Management Committees.

THE COMMISSION'S APPROACH TO MARKET MANAGEMENT

13. The differences in terms of production between cereals and sugar on the one side and dairy products and beef products on the other side should be emphasised. The former products are produced in bulk once a year and subsequently put into storage for later sale on the internal or external market. The quantity initially produced is not linked to the level of refund. The latter, 'value-added' products (so called because additional processing is usually involved), are produced on a day-to-day basis, very much in response to new contracts being concluded given the refunds available.

The importance of the refunds as an active management tool for the internal market is provided for in the basic Council regulations for dairy and beef (Article 33 of Regulation (EC) No 1254/1999 and Article 31 of Council Regulation (EC) No 1255/1999).

All decisions on refunds are taken at the highest hierarchical level in DG AGRI. Since neither the nature of the products nor their systems of production and marketing have changed, a new look at the mechanism for fixing refunds is not required. The parameters relating to these mechanisms are constantly monitored.

INFORMATION AVAILABLE

14. It is not the policy of the Commission to defend a particular market share on the world market or in any particular country. It is, nevertheless, important to be regularly present on third-country markets given the economic, logistical and administrative difficulties in re-opening a market which has not been served for some time.

Against this background, in the dairy sector the Commission sometimes finds it necessary to adopt a more active export policy with a view to not being pushed out of important and traditional markets.

Price information is, however, not readily available. In fact, information on comparable external prices is difficult to collect and even when it is available its validity is sometimes questionable.

15. The Commission uses all available sources to obtain price information. This is difficult in sectors where no real worldwide markets with published prices exist. Furthermore, future price trends as well as current prices have to be taken into account.

16. For all milk products only ranges of prices are available and the range is often wide. Prices quoted may be for current, near future or distant future transactions and for products of varying qualities and presentations.

In the beef sector, information on export or import prices from Argentina, Brazil and Russia has been available since the beginning of 2002.

17. The prices in Member States are just one factor taken into account in the exercise of rate setting. Price differences between Member States exist, despite the single market, caused by several factors e.g. differences in veterinary conditions, extensive or intensive production, meat and/or dairy herd animals, etc. Ultimately, the price is the result of the negotiation between the market players and expresses the level at which offer and supply are balanced against each other.

For example, for butter products, the difference between the maximum and the minimum price in the single market ranges from 80,4 % of the intervention price in Italy (EUR 263,87/100 kg), to 96,4 % in Austria (EUR 316,38/100 kg) — a difference of EUR 52,5/100 kg on an average price of EUR 298,99/100 kg or 91,1 % of the intervention price.

Specific rules regarding price calculation exist (e.g. Commission Regulation (EC) No 2771/1999 for butter and Commission Regulations (EEC) No 563/82 and (EC) No 295/96 for beef).

In the dairy sector, the Commission, using source data obtained in accordance with Regulation (EC) No 2771/1999 and Commission Regulation (EC) No 1498/1999, calculates the representative Community price using the prices in the most important exporting countries. Internal guidelines do exist but could perhaps be documented more formally.

18. The Commission takes account of the latest prices notified by the Member States and other prices (from traders, processors, brokers) in order to calculate the average which best reflects the market situation.

Finally it should be noted that the representatives of the Member States, who are responsible for the notification of prices, are also members of the Management Committee for Cereals, which fixes refunds.

REFUND RATES SET PERIODICALLY

20. It is the Commission's view that rate setting in the beef sector is sufficiently transparent for the internal decision-making process, including the Management Committee, to be concluded correctly. Internal guidelines containing the relevant parameters and derived calculations were formalised at the end of 2002 and, as noted in the comments to paragraphs 9 and 10, before each new rate setting, a comprehensive analysis of the present and future situation is made in writing, giving, for each of the market indicators (prices, stocks, licence applications, price forecasts, production, etc.), an appreciation of where they stand compared to Council regulation criteria. In this context it should be noted that the Irish price is not the only reference price for refund settings. Although Ireland is the only exporter of steer beef and very dependent on export markets, price references are also obtained for meat from young bulls (average Community price) and for cow meat (average Community price).

Market management cannot be carried out in a 'predetermined' way; it requires a global approach, with export refunds being only one of the instruments. Therefore, the Commission does not adjust rates on the assumption that 'everything else is equal'. For instance, it would not be sound management to adjust refund rates upwards immediately following a depreciation of the dollar against the euro (fluctuations happen every day) when the internal supply/demand balance already provides for firm and stable

producer prices. Equally, a particular change in producer prices should not in itself lead to different refunds when the dollar/euro relation may iron out these changes.

World market prices cannot be established in the beef trade due to the variety of destinations and products produced and traded all over the world. Consequently, a difference to be used for monitoring purposes is impossible to calculate. Instead, a close monitoring of the licence applications (twice a week) provides appropriate guarantees against oversubsidy. A refund rate set at too high a level against the background of all other relevant parameters entering into play between seller and buyer would provide a speculative increase in applications and, as seen in the past, a response from the Commission in form of corrective measures (suspension of applications and reduction of refunds). Furthermore, the reduction in refund rates seen since 1995 demonstrates the effectiveness of the procedure.

In conclusion, a transparent procedure has existed in the beef sector leading to consistent management, taking into account globally all relevant parameters.

21. The Commission does not agree with the last part of the statement of the Court. The market parameters setting the framework for refunds are well defined, e.g. through the export ceiling under the WTO and the forecast export surplus established by the periodical balance sheets for each product. Full information about parameters which are subject to more frequent changes (prices, currencies, etc.) is made available in writing before each rate setting, permitting the necessary management control. Transparency exists which also permits an audit exercise in the knowledge that, in global market management where a refund scheme is only one of the instruments, movement in one particular parameter does not necessarily lead to adjustment of refund rates.

23. The best indicator of responsible management of export refunds in the milk and milk products sector is evidenced by the remarkable reduction in refund levels in the last eight years. A table is attached.

24. Article 31(5) of Regulation (EC) No 1255/1999 provides for the most favourable third-country prices to be taken into account.

25. The fixing of export refunds in the milk sector is an iterative process combined with a five-day reflection period. Refunds are fixed monthly and modified in between if necessary.

The factors taken into account are those laid down in the Regulation namely:

- (a) the existing situation and future trends with regard to prices and availability of milk and milk products on the Community market and prices of milk and milk products on the world market;
- (b) demand on the Community market;
- (c) the objectives of the common organisation of the markets in milk and milk products, which are to ensure a balanced situation and a natural development regarding prices and trade on these markets;
- (d) tenders resulting from agreements concluded in accordance with Article 300 of the Treaty;
- (e) the importance of avoiding disturbance in the Community market;
- (f) the economic aspect of the proposed exports;
- (g) entries of milk and milk products under inward processing arrangements.

All these factors are taken into account in fixing refunds.

The Commission considers, however, that there are no reliable world market prices for milk and milk products, only a wide range of quotations, which are subjective in nature.

For these reasons the Commission's practice of monitoring daily applications for licences and comparing quantities to those established in a theoretical profile is a vital factor in its considerations for fixing refund levels.

Other considerations such as market balance and WTO commitments are also relevant, as is stability, which contributes to trade flows. The setting of refund rates is therefore not a precise mathematical exercise — see Regulation (EC) No 1255/1999.

The preamble to and Article 31 of Regulation (EC) No 1255/1999 provide the Commission with a certain latitude in its assessment of each situation in arriving at its eventual judgement on a particular rate. In the cases mentioned by the Court the Commission has explained why it proceeded as it did. While it may not always have been completely documented in the individual files, the Commission has explained that extremely important circumstances prevailed in opting for a rate different from the theoretical calculated rate during the period examined.

Improvements have been made to the internal procedures and now a detailed description of the reasons for and the calculations justifying the changes must be provided.

26. For the most part the Commission's calculated fob prices were well above the minimum quotations for similar products on the world market. The Commission has already pointed out that in fixing export refunds it takes the factors provided for in Council legislation into account. In the absence of quality data on world market prices, it relies heavily on quantity data, notably on applications for licences compared with availability under the WTO commitments as well as market balance needs.

The Commission has also commented in paragraph 25 on the validity of the minimum and maximum quotations of prices of dairy products on the world market, published in various publications. These quotations are subjective and have to be treated as such.

The Commission has illustrated this with the most recent information available as shown in the reply to paragraph 25.

The exports of SMP in the year 2001 were almost 47 % below the average of the previous five years (i.e. 140 000 tonnes compared to an average of 262 400 tonnes). Exports of WMP in 2001 were 16 % below the average for the previous five years (477 500 tonnes compared to the average of 569 000 tonnes).

Applications for licences during the months in question were also at or below normal levels. Therefore the estimates of the Commission which were not fully taken into account in the assessment of the refund level were inaccurate as demonstrated by the very low level of applications for export licences for SMP and a normal level of applications for WMP.

Serious animal health problems (BSE and the foot-and-mouth outbreak) influenced the sector in this period. Several third countries had imposed bans on imports of Community milk powders or were considering doing so.

In March 2001 the Commission established the possible impact of foot-and-mouth disease on the dairy sector. If third countries which were applying import restrictions continued to do so, purchases of butter and SMP in the April, May and June period in 2001 due to the loss of exports would amount to 106 000 tonnes of SMP and 52 000 tonnes of butter. The quantities would be substantially greater if all third countries were to ban imports of EU products (e.g. 394 000 tonnes of SMP and 166 000 tonnes of butter).

Under these circumstances the Commission reduced the refund on SMP only four times in the period in question and the WMP refund three times.

27 and 28. The milk-products sector was affected to a significant extent by the Russian financial crisis in 1998, the dioxin problem in Belgium in 1999, the BSE crisis in 2000 and the foot-and-mouth outbreak in February 2001. Cheese exports to Russia fell from 140 000 tonnes in 1997 to 71 000 tonnes in 1998 and to 21 000 tonnes in 1999. The cheese sector is a complex sector as regards quality, composition, presentation, packaging and pricing, and the cheese market is not necessarily linked to developments on the butter, SMP or WMP markets.

The Court describes succinctly the Commission's efforts, given the complexity of the cheese sector, to set minimum standards for cheeses eligible for refund and to establish a new method for calculating export refunds by fixing unit fat and solid-non-fat refunds and then applying these amounts to the minimum fat and solid-non-fat amounts in the cheese.

The Commission has made great efforts to improve the system for cheese, notably by establishing minimum standards of cheeses eligible for refunds.

As the Court points out, the theoretical rates were not consistently used. This is because the developments and needs of the cheese market were not the same as for butter and SMP. This was the case notably when developments in the SMP market led to very low refunds and eventually none from September 2000, but also when the calculation would have led to an unjustified increase in the existing rates.

The bonuses were introduced with a view to avoiding violent downward movements in cheese refund levels. By the introduction of the new method in February 1997, for certain high-dry-matter cheeses in particular, the calculated refund was increased temporarily by bonuses of 10 %, 15 % or 20 % depending on whether the cheese contained 55 %, 60 % or 65 % dry matter. These bonuses were eliminated in October 1998.

REFUND RATES SET BY TENDER

30. (a) For a long time, the main price reference on the world market has been US SRW wheat. On the Community market the price of French wheat is the most representative in view of the size of the French wheat harvest, which accounts for over one third of the EU total. Naturally, since the quality of wheat varies depending on climatic conditions, this has to be borne in mind when comparing different types of wheat and their prices. This means that fixing a refund is not a matter of simply comparing wheat prices in the EU (standard French wheat) and the US SRW.

There are still other factors to be taken into consideration, particularly competition from wheat from other sources (Argentina, the Black Sea, Pakistan, India, China, etc.) with that from the EU and America. These other exporting countries often compete against our wheat with lower prices in order to secure a slice of world trade.

(b) The ACP States have for a long time been a traditional and stable EU market.

Under the EU/ACP agreements, the EU has undertaken to ensure supply to these countries on preferential terms.

The Commission has not made differentiated refunds since the 2001/02 marketing year because these have not been justified by market conditions.

(c) The refund differential may vary from one year to another, mainly because of reasons concerning the quality of wheat on the Community and world markets and the different prices on different markets. Following application of Agenda 2000 from the 2001 harvest, specific refunds have no longer been made.

(d) When fixing the amount of the refund, the Commission takes into account not only the spot prices but also those for forward delivery in order to follow changes on the markets as far as possible throughout the period of validity of the export licence.

The maximum refund awarded does not necessarily correspond to the strict mathematical calculation but includes other market factors: these are discussed with the representatives of the Member States in the Management Committee. Furthermore, the representatives of the Member States vote on the fixing of refunds by tender.

The opinions of the Committee are recorded in a file note, with explanations; these are available to the Court of Auditors.

31. As part of Agenda 2000, the Commission proposed abolishing the monthly increments but on 24 March 1999 at the Berlin Summit the Heads of State decided to keep them. The Commission repeated its proposal as part of the 'CAP reform'.

32. The short description of the sugar regime needs some qualification. The surplus created by the production of white sugar within the quota and imports (including ACP sugar) is, however, exported with an export refund only up to the limits to which the

EU is committed under the WTO Agreement on Agriculture. If an exportable surplus above the limits is likely to arise in a given year, the Commission has to reduce the quota production by the amount above the limits.

The export refund is granted only for quota sugar and ACP-protocol and India sugar. Therefore the surplus created by other imports is theoretically re-exported by an equivalent amount of quota or ACP-India sugar.

33. Before July 2001 this calculation of the internal prices has included the amount of the storage levy as part of the price support level. Thus the reference for the internal price has been reduced as well as the refund rate since then.

35 and 36. Competition between the tenderers takes place by varying the gap between the theoretical refund and the maximum refund, taking into account the export programme, the price level and evolution on the world market as well as the degree of competition. In 2001/02 this gap varied between EUR 0,03 and 0,730/100 kg with an average of EUR 0,073/100 kg.

36. Though the calculation of the theoretical refund is known and though the absolute amount of the gap and its variation may be small compared with the amount of the refund, it is nevertheless this gap which determines whether a tenderer is successful. The gap is normally a function of the total offers made, which are not predictable. It has also to be considered that to export with refund is in any case considerably less profitable than selling into the internal market (where prices are generally higher than the intervention prices and where storage costs are recovered) and that it is also as a consequence of the method below the support level.

37. The fact that the method used is known to the operators does not hamper this kind of competition. The EU exporter operates between the intervention price level (which is guaranteed to the sugar producer/seller) and the world market quotations as export contracts refer usually to these prices. The tendering system appears to function properly under these premises, in particular if one takes into consideration the smooth carrying-out of the export programme.

There was particularly heavy competition during October and November 2002 when only around a half of the total quantities offered it had been accepted at a gap to the theoretical refund of up to EUR 0,3/100 kg.

The question whether a system with periodically fixed rates as compared to a tender system would produce savings in total expenditure could be answered only by a more profound study where all possible administrative consequences are scrutinised

and where in particular the problem of the control of the quantities and financial outlets under the WTO commitments is approached. The Commission will give due consideration to the Court's recommendation.

38. 'C' sugar is produced in order to cover the risk that the quota is not fulfilled because of adverse climatic conditions and in the most efficient regions also purposely; depending on world market prices this sugar is then exported or carried forward quota sugar for the following year.

This does not mean that quota sugar could also be exported at a lower (or higher, as necessary) refund, as for quota sugar a minimum price for beets has to be paid and as this sugar, if not exported, would have to be put into intervention.

The Commission wishes to emphasise that an in-depth evaluation of the entire sugar regime is currently being undertaken.

CONCLUSIONS

39. The level of refund set cannot simply be the result of a difference between two prices or ranges of prices; as provided for in the relevant Council regulations, other factors have to be taken into account: market balance, WTO commitment, extraordinary events and anticipated changes in the EU or world market situations.

The Commission takes account of the latest prices notified by the Member States and other prices (from traders, processors, brokers) in order to calculate an average which best reflects the market situation.

For the beef sector, internal guidelines containing the relevant parameters and derived calculations were drafted at the end of 2002 and, as referred to in the comments to paragraphs 9 and 10, before each new rate setting a comprehensive analysis of the present and future situation is made in writing.

In the dairy sector, the Commission, on the basis of source data obtained in conformity with Regulations (EC) No 2771/1999 and (EC) No 1498/1999, calculates the representative Community price using the prices in the most important exporting countries. Internal guidelines do exist but could perhaps be documented

more formally. Article 7 of Regulation (EC) No 2771/1999 indicates that a flat rate amount of EUR 2,50 is to be added to the ex-factory price of butter to cover transport costs.

All decisions on refunds are taken at the highest level in DG AGRI. Since neither the nature of the products nor their systems of production and marketing have changed, a new look at the mechanism for fixing refunds is not required. The parameters relating to these mechanisms are constantly monitored.

All proposals to the Management Committee on export refund rates are prepared or discussed in a meeting chaired by the Director-General (or his replacement), in the presence of representatives of the financial and legal departments. Any decision on export refund rates is initialled by the responsible Director (who is also Chairman of the Management Committee) and signed by the Director-General.

The specific features of each sector are illustrated in particular by Regulations (EEC) No 1766/92 for cereals, (EC) No 1255/1999 for milk, (EC) No 295/96 for beef and Council Regulation (EC) No 1260/2001 for sugar.

From the beginning of 2002, a coordination group has been in operation and has worked on the following dossiers: prefinancing, differentiated refunds, 'carousel' (roundabout) fraud and minimum guidelines for rate setting.

RECOMMENDATIONS

40. (a) There has been an interdepartmental coordinating group on refunds since February 2002, which has laid down

the minimum rules to be followed for fixing refunds. These cover the requirement to clarify and specify the methods of calculating refunds and the documentation required for each decision of this type.

- (b) The guidelines describe the method of calculating the refund and the policy on this point followed for the sector concerned.
- (c) Taking into account all the elements for fixing export refunds including price quotations, the Commission will examine the role which a price verification system along the lines of that applied in the beef sector could play in the milk products sector.
- (d) An explanatory note justifying a proposal to amend the amounts of the refunds must be submitted to the hierarchy before the meeting to prepare the Management Committee.
- (e) A detailed description (file note) of the reasons and calculations justifying a decision to amend or not to amend the amount of the refund must be prepared, describing the main points on which it is based (price, calculations, trade, commercial information, tactical considerations, aims, level at which the decision was taken). This description should also contain the levels at which the decision was taken.
- (f) As part of the mid-term review, the Commission will again propose that the Council should abolish the arrangements for monthly increments in the cereals sector.
- (g) The Commission agrees to consider the idea.
- (h) For sugar, the Commission will give due consideration to the Court's recommendation. For cheese, the rates are regularly monitored.