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(pursuant to Article 287(4), second subparagraph, TFEU)

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SUMMARY

I.

Sugar is manufactured by EU producers mostly from sugar beet which is cultivated by growers. Prior to the reform of the market, the EU was one of the largest producers of sugar in the world and is the second largest consumer. In 2006 a reform of the sugar market was approved in order to align it with the fundamental principles of the new common agricultural policy of increased market orientation and to comply with the Union's international commitments.

II.

The principal objectives pursued by the reform were:

— to ensure the competitiveness of the EU sugar industry;

— to stabilise the markets and to guarantee the availability of sugar supplies;

— to contribute to providing a fair standard of living for the agricultural community via instruments put in place to mitigate the significant direct and indirect social and economic impact on the agricultural community in the regions affected.

III.

The main features of the reform were:

— reduction in production quotas by 6 million tonnes, around 30 % of total quota production, by September 2010, to a production level which the Commission estimated would preserve the market balance;

— gradual reductions in the prices per tonne of sugar and sugar beet, the latter reductions being partly compensated via direct payments to growers;

— a temporary restructuring fund, financed via a contribution paid by producers on their quota totalling 6,2 billion euro and funding principally restructuring aid (4,7 billion euro), diversification aid (0,7 billion euro) and transitional aid to full time refiners (0,2 billion euro).

IV.

The Court's audit assessed the extent to which the objectives of the reform have been achieved to date.

V.

With regard to the competitiveness of the EU sugar industry, the Court concludes that overall the reform process did not fully ensure the future competitiveness of the EU sugar industry via a selective reduction of unprofitable production capacity. In the first two years of the reform, the expected level of voluntary quota renunciations was not achieved. From the third year of the reform, key modifications were made and the overall 6 million tonnes target was largely achieved although a significant portion of quotas was also abandoned by producers that were not in the least competitive regions. The Court also notes that the reform simultaneously provided incentives to reduce the level of quotas but also allocated additional quotas, ostensibly to the most efficient producers but that some of these additional quotas were subsequently abandoned. Additionally, the measures introduced had limited impact on increasing the competitiveness of individual growers and the current quota system maintains past rigidities and constraints. Accordingly, it is likely that the prevailing external pressures will continue to weigh heavily on the EU sugar sector.

SUMMARY

VI.
As to the objective of stabilising the market and guaranteeing the availability of sugar supplies, the Court found that while relative market stability has been assured thus far and prices on the EU sugar market have been stable to date around the reference prices, it has been achieved through the use of production quotas which currently set the maximum allowed internal production at a level of production markedly below internal market requirements, at 85 % of EU consumption. As a result, EU supplies are increasingly dependent on imports while new uses for sugar place increased demand on supplies. The Court also notes the increasing risk of displacement of production facilities due to the opening up of imports from EBA beneficiary countries. Furthermore, the Court draws attention to the risk that downward movements in sugar price are not passed on to consumers. For processed products most of the cost savings are likely to be retained by producers, while for retail sugar, price transmission is affected by the concentration of distribution networks.

VII.
As to whether the specific instruments/mechanisms were successful in addressing and alleviating the adaptation problems arising from reform, the Court notes that, overall, it is not yet possible to conclude on the extent to which the instruments put in place have mitigated the significant direct and indirect social and economic impact on the agricultural community in the regions affected. As a result of the reform, some 80 factories were closed. The Commission and the Member States have given inadequate attention to monitoring the direct social impact of the production facility dismantlement. The Court noted in certain Member States delays in the implementation of the diversification measures intended to develop alternatives to sugar production as well as in the compliance with environmental obligations. Furthermore, no evidence was available to demonstrate that the transitional aid amounting to 150 million euro paid to traditional refiners of cane sugar was based on objective parameters of the effects of the sugar reform other than a loss of 'certain benefits' previously enjoyed by the affected refiners.

VIII.
The Court notes that, while it is likely that an amount of around 640 million euro will be available in the restructuring fund to be assigned to the EAGF, on the other hand, there are significant additional related costs, not directly charged to the agricultural section of the budget, for compensating traditional ACP country exporters for their loss of income, which lead to the overall cost of the reform being 1,2 billion euro higher than the average budgetary support before the reform.

SUMMARY

IX.
Taking these factors into consideration, the Court recommends that:

— for any further adjustment of internal production deemed necessary, instruments and measures should be designed so as to ensure overall consistency and be based on a thorough technical assessment of needs and on objective criteria;

— the Commission proposes measures to remove the rigidities and constraints in the current quota system which affect adversely the competitiveness of growers and producers;

— any future decisions which impact EU sugar production take into account the level of internal sugar production which is considered necessary given the Treaty objective of assuring availability of supply;

— price formation be subject to regular monitoring by the Commission and that the Commission and the Member States ensure that competition law is correctly enforced in the sector thus ensuring the Treaty objective that supplies reach consumers at reasonable prices;

— the Commission and the Member States take urgent measures to ensure the diversification measures become rapidly operational and produce the intended impact;

— the Commission and the Member States become more actively involved in ensuring that the environmental obligations entered into by the closed factories are fully complied with.

INTRODUCTION

BACKGROUND AND PRE-REFORM SITUATION

1. Sugar is manufactured by EU producers either from sugar beet[1] which is cultivated by growers, or refined using imported raw sugar made from sugar cane. Sugar beet cultivation should ideally be located on land in the vicinity of the factories in order to maintain transport costs at reasonable levels and because the sugar content of the beet deteriorates soon after harvesting. Most sugar beet growers make use of the services of machinery contractors who carry out activities such as seeding and harvesting the beet. The sugar beet is then transported to the producers' factories for processing. The sugar producers finally sell the sugar in bulk to food and non-food industrial users or in packaged form to retailers.

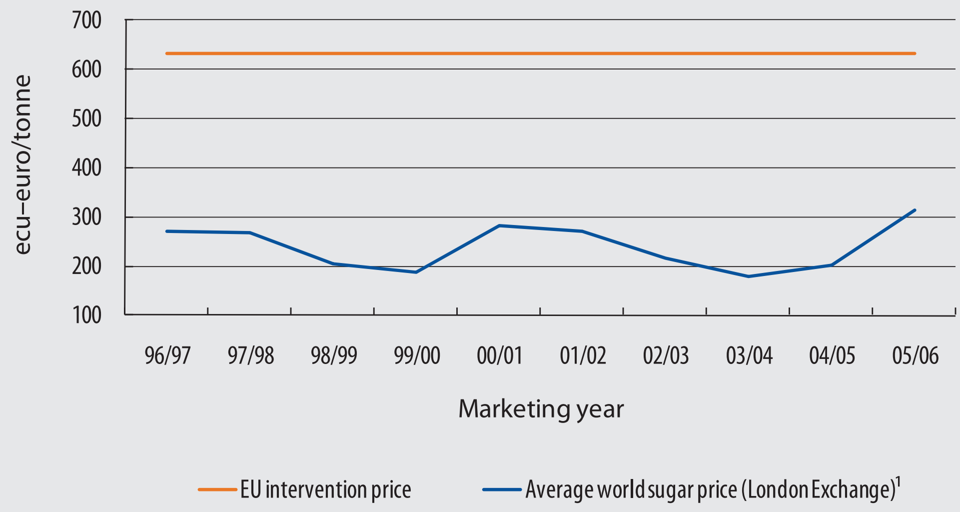
2. The sugar common market organisation (CMO) was set up in 1967[2] to ensure a fair income to Community producers and to stabilise the market. EU producers could sell sugar at guaranteed prices, i.e. intervention prices which in the period 1996–2006 were significantly higher than the world market price (see ***Graph 1***).

[1] The only factory in the EU which produced sugar from sugar cane (except for those in the outermost regions) was closed in 2006.

[2] CMO was set up by Regulation No 1009/67/EEC of the Council (OJ 308, 18.12.1967, p. 1). Currently CMO is governed by Council 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) (OJ L 299, 16.11.2007, p. 1).

GRAPH 1

PRICES FOR WHITE SUGAR FROM 1996 TO 2006



[1] Arithmetic mean of spot prices of white sugar, loaded fob designated European ports, in new bags.

Source: The Commission (DG AGRI) — 'Agriculture in the European Union — Statistical and Economic Information (2000-08)'.

3. Production quotas distributed amongst the Member States kept the overall production within certain limits. Import levies were applied on external production and sugar surpluses were exported. Sugar which had been produced within the quotas but was surplus to market requirements was exported with export refunds[3]. No export refunds were granted for the export of sugar which had been produced in excess of the quotas.

4. Prior to the reform, the EU was the third largest sugar producer in the world with annual production in excess of 20 million tonnes and was the second largest consumer[4]. The EU also had a limited production of isoglucose which is derived from processing starch usually extracted from maize or from wheat or potatoes. Isoglucose is largely used in the food industry and in many cases, for instance in soft drinks, is a potential substitute for sugar. EU production of isoglucose has been limited by the establishment of a quota of marginal magnitude[5]. Quotas of limited importance also exist for the production of inulin syrup, a sweetener obtained from a fibre extracted from the chicory root. ***Table 1*** provides key figures for the sugar sector pre and post reform.

5. In the years preceding the reform, the EU came under increasing pressure to avoid exporting surplus quantities of sugar at subsidised rates on the world market. This pressure finally resulted in a WTO ruling in 2005 which obliged the EU to include out-of-quota sugar exports and re-exports of the ACP imports in its sugar export limit. Thus, from 2006 onwards, the EU cannot export more than 1,37 million tonnes of subsidised white sugar, instead of the previous annual average exports of 6,5 million tonnes[6] — ***Box 1*** contains some additional information on the WTO ruling.

[3] The cost of the export refund was partly covered by levies on producers. As indicated in Special Report No 20/2000, paragraph 46: 'The annual cost to the EU budget of exports of surplus sugar is some 1 500 million euro, of which 800 million is recovered through the production levy'.

[4] In 2005 the EU produced 20,3 million tonnes of sugar and consumed 15,6 million tonnes. The EU imported 2,3 million tonnes of raw sugar while exports amounted to 7,5 million tonnes, of which 2,5 million tonnes were subsidised by the EU through export refunds.

[5] Council Regulation (EC) No 318/2006 (OJ L 58, 28.2.2006, p. 1) set isoglucose quota at 507 680 tonnes (EU-25); this was updated several times to take into account new allocations as well as renunciations and is currently 690 441 tonnes (EU-27) (last update by Regulation (EC) No 1234/2007). In the United States the production of isoglucose accounts for approximately half the production of natural sweetener.

[6] Annual average exports for marketing years 2003/04, 2004/05 and 2005/06 — The Commission: Agriculture in the European Union — Statistical and Economic Information 2007.

TABLE 1

THE SUGAR SECTOR PRE AND POST REFORM

Pre-reform EU-25 data	Post-reform EU-27 data[1]
Over 20 million tonnes of annual sugar production (bioethanol use not included).	14 to 15,5 million tonnes of annual sugar production (without bioethanol use).
285 000 sugar beet growers cultivating 2,1 million ha of beet for sugar and making use of the services of machinery contractors; over 8 000 cane growers cultivating 43 000 ha of sugar cane, mainly in EU overseas territories.	164 000 sugar beet growers cultivating 1,4 million ha of beet for sugar and making use of the services of machinery contractors; and less than 8 000 sugar cane growers.
189 sugar factories employing 50 000 workers.	114 sugar factories employing 30 000 workers (including four factories located in the two new EU Member States).
16 isoglucose and four inulin syrup producers, producing 820 000 tonnes.	10 isoglucose producers, producing 690 000 tonnes (and no inulin syrup producer).
7 full time refiners importing and processing annually 2 million tonnes of raw sugar derived from sugar cane.	26 full-time refiners (of which 15 in new Members Bulgaria and Romania) importing and processing annually 2,7 million tonnes of raw sugar derived from sugar cane.
Exports amounting to 7,5 million tonnes, of which 2,5 million tonnes with export refunds.	Exports not exceeding 1,37 million tonnes out of quota sugar, not supported by export refunds.
EU consumption of more than 15 million tonnes (without bioethanol use).	EU consumption of more than 17 million tonnes (without bioethanol use).

[1] Where data for Bulgaria and Romania have a significant impact, this has been indicated.

6. Moreover, in 2001 the EU had already adopted the so-called 'Everything but Arms' (EBA) initiative which suspended all import tariffs for products from 49 developing countries. This initiative had a direct impact on the sugar sector as the EBA initiative beneficiaries included six[7] of the signatories of the Africa, Caribbean and Pacific (ACP) Sugar Protocol. Exports of 3,5 million tonnes from the EBA and ACP countries to the EU constitute one of the thresholds of the safeguard mechanism designed under the EPA (Economic Partnership Agreement) Regulation. The suspension of duties on their sugar was introduced in 2001 on limited quantities earmarked for the refining industry. The quantities were subsequently gradually increased until free unrestricted access was granted from 1 October 2009 onwards.

[7] Madagascar, Malawi, Mozambique, Tanzania, Uganda, Zambia.

BOX 1

THE WTO RULING

Signatory Members of the 1994 Marrakesh protocol to the General Agreement on Tariffs and Trade (GATT) agreed, amongst other things, to reduce export subsidies by 36 % and subsidised quantities by 21 % over a six-year period. Each signatory Member presented the details of its commitments in a separate Schedule of concessions, annexed to the Marrakesh Protocol, to become Schedules to GATT 1994.

In its schedule of concessions, the European Community considered that its out of quota (C sugar) exports were not subsidised, as they did not benefit from export refunds; in addition, being a major importer and exporter at the same time, it decided to include in its reduction schedule only such export refunds as corresponded to its exports net of imports. On that basis, it calculated its reference subsidised quantity as 1,612 million tonnes, to be reduced by 21 % to 1,273 million tonnes, a threshold which became 1,37 million tonnes after new Member States EU accession. Hence, depending on the level of C sugar production, total exports could fluctuate in the 4 to 7 million tonnes range. Conformity with limits was ensured through management of export licences.

Following a 'request for consultations' by Brazil, Thailand and Australia in 2002, the WTO's Dispute Settlement Body (DSB) re-examined the EC's commitments and export policy and in an April 28, 2005 final report, it found that the wording of the EC's schedule of concessions did not imply that export of quantities corresponding to ACP imports could be made in excess of the limit indicated and the exports of C sugar (out of quota) were to be regarded as subsidised, thus could not be made in excess of that limit either.

In practice, this meant a further decrease in European exports of a 5 million tonnes order of magnitude. The marketing year 2006/07 was the first to be fully subject to the export limits.

THE SUGAR REFORM AND ITS OBJECTIVES

7. A reform of the sugar market was therefore considered necessary in order to align the CMO with the fundamental principles of the new common agricultural policy of increased market orientation and to maintain market balance while complying with the Union's international commitments, namely the WTO ruling that all subsidised EU exports should be kept within 1,3 million tonnes (see paragraph 5) and the EBA initiative in favour of least developed countries granting them unlimited duty free access to the EU as from 2009 (see paragraph 6).

8. Following a Commission proposal, a reform of the sugar market was approved by the Council and came into effect in July 2006[8]. It was preceded by an extensive consultation with the principal stakeholders and by a series of impact assessment papers which formed the basis of the Commission proposal in 2005.

9. The reform pursued a variety of objectives, which were partly conflicting and therefore difficult to fulfil simultaneously. The principal objectives set were:

- to ensure future competitiveness of the EU sugar industry by a reduction of unprofitable production capacity;
- to stabilise the markets and to guarantee the availability of sugar supplies;
- to contribute to providing a fair standard of living for the agricultural community via instruments put in place to mitigate the significant direct and indirect social and economic impact on the agricultural community in the regions affected.

[8] Legal basis: Council Regulations (EC) No 318/2006, (EC) No 319/2006 and (EC) No 320/2006 (OJ L 58, 28.2.2006, p. 1, 32 and 42). Regulation (EC) No 318/2006 has since been repealed and replaced by Regulation (EC) No 1234/2007. Implementing rules for Regulation No 320/2006 are set by Commission Regulation (EC) No 968/2006 (OJ L 176, 30.6.2006, p. 32).

THE MAIN FEATURES OF THE REFORM

10. The main features of the reform are:

(a) maintenance of production quotas but a reduction in their volume by 6 million tonnes (around 30 % of total quota production)[9] by September 2010 which the Commission estimated would preserve the market balance. However, some flexibility was provided through making available to producers additional quota, of some 1,5 million tonnes, mostly for purchase by those that considered themselves to be competitive in the new market environment;

(b) gradual reductions in the price per tonne of white sugar from the intervention price[10] of 631,9 euro prior to the marketing year 2006/07 to a reference price[11] of 404,4 euro as from the marketing year 2009/10;

(c) gradual reductions in the minimum price per tonne of quota sugar beet paid to growers from 44,01 euro prior to 2006/07[12] to 26,29 euro as from the marketing year 2009/10;

(d) the export refunds mechanism for quota sugar exports was not abolished, however it was foreseen that, as from the marketing year 2007/08, it would no longer be used. Nevertheless, because of market imbalance in that marketing year, the Commission agreed to one more campaign of subsidised exports for 2007/08 and it was not until as from 26 September 2008 that it decided to suspend export refunds for sugar[13];

(e) partial[14] compensation to sugar beet growers for the effect of the reductions in the sugar beet price via the introduction of payment entitlements into the decoupled Single Payment Scheme (SPS) or a separate sugar payment in the new Member States not applying SPS. Under certain conditions growers could also be granted an additional payment retained as coupled aid for a five-year transitionary period. In contrast, compensation was not granted to cereals producers supplying isoglucose producers, under the assumption that the reform would not entail significant change in the cereals prices;

[9] This figure includes the sugar substitutes isoglucose and inulin syrup.

[10] In the previous sugar CMO producers could sell a standard quality of sugar to national intervention agencies at the intervention price thus providing a minimum wholesale price in the EU.

[11] In the current sugar CMO, there is no intervention price, but the Commission has set a reference price around which the wholesale market price should fluctuate.

[12] The weighted average of the A and B quota sugar beet minimum prices after deduction of levies for the marketing years 2003/04 and 2004/05.

[13] Commission Regulations (EC) No 900/2007 (OJ L 196, 28.7.2007, p. 26), (EC) No 947/2008, (EC) No 948/2008 and (EC) No 951/2008 (OJ L 258, 26.9.2008, p. 60, 61 and 66) for sugar in solid state, sugar syrups and sugar in the form of goods not covered by Annex I of the Treaty.

[14] SPS compensated sugar beet growers for around two thirds of the revenue reduction caused by the price reductions, i.e. one third is not compensated.

(f) a temporary restructuring fund, financed via a contribution paid by producers on their quota totalling 6,2 billion euro. The temporary restructuring fund was set up largely to fund compensatory payments for voluntary production quota renunciations. The restructuring fund is managed by the Commission under EU budget provisions[15] and it is foreseen that any funds remaining at the closure of the fund in September 2012 will be assigned to the EAGF[16]. The fund was intended to finance:

(i) restructuring aid (4 750 million euro) to producers who abandon quota production and renounce the quotas concerned. 10 %[17] of the restructuring aid was to be reserved for sugar beet growers affected by the renunciations and for machinery contractors who provided them with specialised services (see ***Graph 2***);

(ii) diversification aid (675 million euro) to encourage the development of alternatives to sugar beet and cane growing and sugar production in regions affected by the restructuring of the sugar industry.

(iii) transitional aid to full time refiners (150 million euro) so as to allow them to adapt to the restructuring of the sugar industry[18].

[15] Article 1 of Regulation (EC) No 320/2006: 'The restructuring fund shall form part of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund. As from 1 January 2007 it shall form part of the European Agricultural Guarantee Fund (EAGF) …. The temporary restructuring amount referred to in Article 11 shall be revenue assigned to the restructuring fund in accordance with Article 18(2) of Regulation (EC, Euratom) No 1605/2002. Any amount that may be available in the restructuring fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the EAGF.'

[16] Article 1 of Regulation (EC) No 320/2006: 'Any amount that may be available in the restructuring fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the EAGF.' Deadline extended to 2012 by Commission Regulation (EU) No 1204/2009.

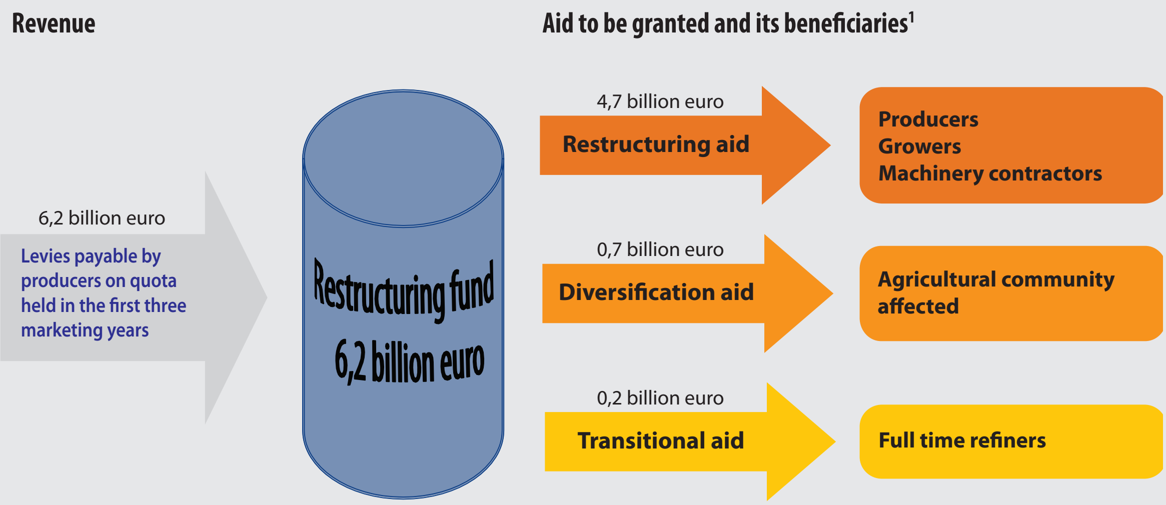
[17] Article 3(6) of Regulation (EC) No 320/2006; as amended by Council Regulation (EC) No 1261/2007 (OJ L 283, 27.10.2007, p. 8).

[18] Additionally, Regulation (EC) No 320/2006 foresaw 14 million euro as transitional aid to certain Member States (Austria 9 million euro, Sweden 5 million euro). According to Article 9: 'In the context of the national restructuring programme referred to in Article 6(3): (a) an aid of not more than 9 million euro shall be granted in Austria for investments in collection centres of sugar beet and other logistical infrastructure needed as a consequence of restructuring; (b) an aid of not more than 5 million euro shall be granted in Sweden for the direct or indirect benefit of sugar beet growers in Gotland and Öland giving up sugar production as part of the national restructuring process.'

11. The breakdown of the income and expenditure of the restructuring fund is shown in ***Annex I***.

GRAPH 2

OVERVIEW OF THE RESTRUCTURING FUND



[1] Any remaining funds not used will be assigned to the EAGF (currently estimated at 0,64 billion euro).

OVERVIEW OF THE MANAGEMENT SYSTEMS

12. The procedures to be followed by producers applying for restructuring aid are detailed in ***Box 2***.

BOX 2

THE APPLICATION PROCESS FOR RESTRUCTURING AID

In order to participate in the restructuring process, a producer had to renounce all or part of its quota and submit an application for restructuring aid to the Member State. The application had to include a restructuring plan with the following elements:

— a social plan detailing the actions planned, in particular with respect to retraining, redeployment and early retirement of the workforce concerned;

— an environmental plan detailing the actions planned so as to respect environmental obligations;

— a business plan detailing the modalities, timetable and costs for the closure of the factory or factories and the full or partial dismantling of production facilities; and

— a financial plan detailing all the costs in relation to the restructuring plan.

The Member State authorities had to review the application to ensure it satisfied the EU and national requirements. After approval, the producer could start carrying out the activities envisaged in the restructuring plan and had to provide an annual progress report. The producer received the restructuring aid in two instalments upon receipt of a security deposit of 120 % of the aid receivable. The security is released in line with the completion of the activities in the restructuring plan and the related checks done by the national authorities.

13. Member States are responsible for establishing national restructuring programmes and, as far as the restructuring fund is concerned, for:

(a) checking the eligibility of producers' applications for restructuring aid;

(b) imposing social and environmental requirements on producers, provided that this does not restrict the restructuring process;

(c) deciding upon the aid to be awarded to beneficiaries where this is envisaged by the Regulations;

(d) paying restructuring and diversification aid to beneficiaries; and

(e) monitoring, verifying and reporting on the implementation of restructuring and diversification aid.

14. The Commission is responsible for monitoring the implementation of the reform proposing corrective actions when needed and for administering the restructuring fund. The Commission shall receive from Member States the lists of applications for aid (and copies thereof), the national restructuring programmes and reports on the implementation of restructuring aid activities.

AUDIT SCOPE AND APPROACH

15. The Court's audit assessed the extent to which the objectives of the reform of the sugar market have been achieved by addressing the following specific questions:

(a) Has the sugar market reform ensured the future competitiveness of the EU sugar industry?

(b) Has the sugar market reform stabilised the markets and guaranteed the availability of sugar supplies?

(c) Have the specific instruments/mechanisms been successful in addressing and alleviating the adaptation problems related to the reform?

16. Additionally, the audit examined the compliance with the environmental obligations linked to factory dismantling and the likely impact for consumers of sugar price reduction. Furthermore, the audit examined the cost of the reform.

17. Audit evidence was collected and examined by means of interviews and analysis of systems, documents and data at the Commission and in a sample of eight Member States: the Czech Republic, France, Germany, Greece, Ireland, Italy, Poland and Spain[19]. The fieldwork took place between end 2008 and mid 2009, and covered the operations of the restructuring fund during the first three marketing years of the reform (2006/07 to 2008/09). Meetings were held with representatives of the European Committee of Sugar Manufacturers, the International Confederation of European Beet Growers and the Committee of Industrial Users of Sugar to obtain their views on the sugar reform.

18. In the Member States visited, the audit included a review of the paying agency's systems for implementing the reform and the examination, including on-the-spot inspections, of a sample of payments of restructuring aid. In addition, the representatives of stakeholders in the sugar sector (producers, growers, machinery contractors and sugar factory workers) were interviewed.

[19] The producers of these Member States contributed over 70 % of the sugar quota renunciations made for each year of the restructuring fund.

Previous audit report

19. The Court had previously reported on the management of the sugar CMO in a special report in 2001[20] that reviewed the achievement of the overall objectives of the CAP. The report highlighted the high prices imposed on the EU sugar user, excessive rigidities in the production quota system which were concentrated in the hands of a limited number of producers and recommended taking steps to increase the industry's competitiveness.

[20] ECA Special Report No 20/2000 concerning the management of the common organisation of the market for sugar (OJ C 50, 15.2.2001).

OBSERVATIONS

HAS THE SUGAR MARKET REFORM ENSURED THE FUTURE COMPETITIVENESS OF THE EU SUGAR INDUSTRY?

20. The reform intended to 'launch a profound restructuring process leading to a significant reduction of unprofitable production capacity in the Community'[21] providing an economic incentive for producers with the lowest productivity to voluntarily give up their quota production, taking into account the respect of social and environmental commitments linked to abandoning production[22].

21. The Commission anticipated that the economic incentives offered would lead the undertakings with the lowest productivity, i.e. with factories that would not be competitive after the price reductions envisaged by the reform, to renounce their quota by accepting the compensation by the restructuring fund without the need for the instruments to target either specific factories or regions.

22. Therefore, the rationale for the reform was that the renunciation of 6 million tonnes from lower productivity production facilities would increase the average productivity and thus ensure the future competitiveness of the EU industry. However, some flexibility was provided through making available to producers additional quota, of some 1,5 million tonnes, mostly for purchase by those producers that considered themselves to be competitive in the new market environment.

23. The competitiveness of the EU sugar industry is dependent, on the one hand, on the efficiency of the producers to produce sugar and, on the other hand, on the ability of beet growers to deliver sugar beet to the producers at competitive prices. Notwithstanding the general aim of the reform that undertakings with the lowest productivity give up their production quotas, the audit found that no comparison of the productivity of individual producers or factories was available either within the Commission or in Member States Managing Authorities. Furthermore, the Commission did not require the Member States and/or the industry to provide the data needed to assess the implementation of the reform in terms of the productivity of individual producers or factories.

21 Recital 1 of Regulation (EC) No 320/2006.

22 Recital 5 of Regulation (EC) No 320/2006.

24. In this regard, the impact assessment merely referred to studies[23] which have ranked the sugar-producing regions according to the combined profitability of growers and producers, categorising the regions as: low, medium and high combined profitability. ***Table 2*** provides details on the ranking as well as on the level of initial quotas of white sugar. The ranking was based on 2001 data for the EU sugar industry. However, the data had not been updated when the Commission made its proposal in 2005, notwithstanding that certain significant changes had taken place, such as increases in sugar beet yields in Spain and the United Kingdom and producer consolidation/rationalisation in Ireland.

[23] Update of impact assessment of 22 June 2005, SEC(2005) 808.

25. Based on the profitability ranking contained in the impact assessment, given the unavailability of more precise Commission data on competitiveness of individual producers or sugar factories, the extent of white sugar quotas renunciation coming from producers in the low and medium profitability regions is used as an indicator of the achievement of the targeting of the reform. However, as these are average figures they do not show the existence of individual high profitability producers and/or growers in low profitability areas or vice versa.

IN THE FIRST TWO YEARS OF THE REFORM, THE EXPECTED LEVEL OF VOLUNTARY QUOTA RENUNCIATIONS WAS NOT ACHIEVED

26. In the first two years of the reform, producers voluntarily renounced only 2,2 million tonnes compared to the targeted amount of 6 million tonnes, due to the slow uptake in the second year. This was a clear indication that the incentives offered were not considered by the industry as being sufficiently attractive to encourage abandonment of quota.

27. An essential element which affected the sugar producers' decision whether or not to accept quota abandonment was the uncertainty surrounding the financial compensation offered. In effect Member States could decide how much restructuring aid was granted to producers, subject to at least 10 % being reserved for growers and machinery contractors. Producers did not therefore know at the time of applying for restructuring aid, how much compensation they would receive.

TABLE 2

BREAKDOWN OF MEMBER STATES BY THEIR COMBINED PROFITABILITY ON SUGAR PRODUCTION

Member State	Level of combined profitability[1]	Initial quota[2] (tonnes of white sugar)
Ireland Greece Italy Portugal (mainland)	Low	2 143 923
Czech Republic Denmark Spain Latvia Lithuania Hungary Slovenia Slovakia Finland	Medium	2 923 655
Belgium Germany France (metropolitan) Netherlands Austria Poland Sweden United Kingdom	High	12 895 381
Other Member States[3]	Not included	604 114
TOTAL		**18 567 073**

1 Breakdown of Member States according to combined profitability which would affect their likely reduction in sugar production. (Table 3 in the Commission 'Update of impact assessment' [SEC(2003) 1022]).

2 The 'Initial quota' equals the initial quota allocated to Member States as per Annex III of Regulation (EC) No 318/2006 for marketing year 2006/07 together with additional quotas purchased in 2006/07 and 2007/08.

3 'Other Member States' includes Romania, Bulgaria, French overseas departments and the autonomous region of the Azores.

Source: The Commission (Unit C.5 of DG AGRI).

28. An additional factor which may have influenced growers' decision to continue producing sugar beet was the level of aid which continued to be available. The legislation foresees that in Member States that renounced at least 50 % of quota an additional payment retained as coupled aid for a five-year transitionary period would be granted to growers remaining. This coupled aid has been granted in the four Member States, classified in the low or medium combined profitability categories, which renounced that level of quotas[24] and it constituted an incentive for those remaining growers to continue to produce sugar beet for the following five years.

29. Beyond the reasoning of single operators, the difference between targeted and actual renunciations should also be analysed in view of the overall size of the renunciations targeted. It was unlikely to be a realistic expectation that a substantial quota renunciation of roughly 30 % of the total could be achieved only via voluntary choices of the producers with the lowest productivity. In effect, the combined total quota for the producers in Member States classified by the Commission as 'low' and 'medium' productivity was 5,1 million tonnes, i.e. less then the targeted reduction. Furthermore, if all of these producers had renounced their quotas, sugar production would have ceased entirely in 13 Member States.

30. The audit found that in one MS the only producer, which before the sugar reform had undertaken a consolidation/rationalisation of its processing facilities and defined itself as one of Europe's most efficient producers, closed down its large, modern and potentially efficient sugar factory justifying their decision on the risk of the lower prices reducing the supply of sugar beet to an uneconomic level.

[24] Greece, Hungary, Italy and Spain.

FROM THE THIRD YEAR OF THE REFORM, KEY MODIFICATIONS WERE MADE …

31. As indicated above, the voluntary renunciations in the first two marketing years 2006/07 and 2007/08 were less than expected.

32. In order to achieve the overall 6 million tonnes target, in 2007 the following key modifications were made to the restructuring fund[25]:

(a) the share of restructuring aid for sugar producers was increased and fixed at 90 % of the restructuring aid and, to ensure that affected growers were also compensated, they were granted a one-off payment of 237,50 euro per tonne foregone;

(b) companies renouncing at least 13,5 % of their 2008/09 quota were exempt from paying the 2007/08 temporary restructuring amount of 173,80 euro per tonne on 13,5 % of their quota;

(c) an obligatory uncompensated quota cut in 2010 was announced if voluntary renunciations were insufficient to meet the target. Producers which had not renounced any of their quotas would be most affected by this latter measure. Consequently, such producers also had to envisage a voluntary renunciation of production.

[25] Council Regulation (EC) No 1260/2007 of 9 October 2007 amending Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector (OJ L 283, 27.10.2007, p. 1).

… AND THE 6 MILLION TONNES TARGET WAS LARGELY ACHIEVED, INCLUDING 0,5 MILLION TONNES OF ISOGLUCOSE AND INULIN SYRUP …

33. These amendments aimed at achieving the desired EU sugar market balance through a 6 million tonnes reduction of the production of sugar, isoglucose and inulin syrup. As a consequence of the changes introduced, in 2008 and 2009 producers gave up around 3,6 million tonnes quotas. By 2009, some 80 factories were closed and total renunciations reached 5,77 million tonnes, of which 5,23 million tonnes relates to the sugar quota. Isoglucose producers renounced 0,22 million tonnes while inulin syrup producers renounced all the quotas available corresponding to 0,32 million tonne production (details shown in ***Annex II***). Thus, the need for a significant final production cut was avoided.

… ALTHOUGH QUOTAS WERE ALSO ABANDONED BY PRODUCERS THAT WERE NOT THE LEAST COMPETITIVE

34. The Commission services confirmed that after the second year of the restructuring period, it had become evident that the required quota reduction could not be achieved only by the cessation of sugar production by the least competitive factories in regions least suited to beet cultivation. Therefore a strong incentive was created for all producers to renounce at least a certain percentage of their quota in order to reach the necessary reduction and to enable the sector to find a new market balance.

35. The audit found cases of undertakings which, considering themselves amongst the most productive, purchased additional sugar quotas and subsequently renounced those quotas, mainly to avoid the risk of an unpaid quota cut. In France, Germany and Poland, the producers' representatives interviewed during the audit stated that the main reason for having renounced part of their quota was to reduce the risk of a final uncompensated cut.

36. Furthermore, the renunciations per marketing year and Member State indicate that quota production abandonment occurred across all productivity categories whereas the initial aim was to create an incentive for the least competitive sugar producers to renounce their quotas.

37. Overall, almost 6 million tonnes of quota were renounced of which 5,2 million tonnes of white sugar. While the proportion of available sugar production quota renounced was significantly higher in the regions considered to have low/medium productivity, 2,4 million tonnes, i.e. some 47 % representing 19 % of their initial quota, were abandoned by producers with factories located in regions considered by the Commission to be most competitive (see ***Annex III***).

38. This situation calls into question the effectiveness of the measures introduced to ensure the future competitiveness of the sugar industry from the perspective of the producers. In particular, the measures introduced from third year of the reform were not sufficiently targeted to achieve the desired objective.

THE REFORM PROVIDED INCENTIVES TO REDUCE THE LEVEL OF QUOTAS AND AT THE SAME TIME ALLOCATED ADDITIONAL QUOTAS

39. The sugar reform introduced a wide range of mechanisms which sometimes conflict with each other. One of these is the establishment of the desired level of quota production.

40. On the one hand the reform established a restructuring aid to provide incentives for sugar undertakings to give up their quota production in order to maintain market stability[26] and, on the other, in order to ensure a smooth changeover given the WTO ruling (paragraph 5) the reform simultaneously offered the same undertakings additional quota production totalling up to 1,5 million tonnes[27], divided as follows.

— Additional sugar quota: sugar undertakings could request the allocation of additional sugar quota up to a global amount of 1,1 million tonnes paying a one-off amount of 730 euro per tonne of additional quota allocated. Some 1 million tonnes were actually purchased.

— Additional isoglucose quota: 300 000 tonnes of additional isoglucose quota were allocated to undertakings proportionately to the isoglucose quotas already held. These additional quotas were allocated free of charge.

— Supplementary isoglucose quota: undertakings in Italy, Lithuania and Sweden could request the allocation of supplementary isoglucose quota up to a global amount of 103 000 tonnes paying a one-off amount of 730 euro per tonne of supplementary quota allocated. To the date of the audit no producer used the possibility to purchase the supplementary quota.

[26] Regulation (EC) No 320/2006.

[27] Article 8 and 9 of Regulation (EC) No 318/2006.

41. While the making available of additional quotas could be justified on grounds of competitiveness insofar as it was aimed at the more efficient producers, it inevitably increased the overall quota reduction requirements to achieve the desired market balance.

42. In effect, around 1 million tonnes of additional sugar quota have been allocated to undertakings which paid a one-off amount of 730 euro per tonne of quota allocated. The audit found cases of undertakings renouncing, for the equivalent compensation, these additional sugar quotas recently purchased, mainly in the second phase of the reform to avoid the risk of an unpaid quota cut as announced in 2007 (see paragraph 32(c)). The amount paid by the undertakings to purchase the additional quotas roughly corresponded to the amount they subsequently received to renounce them, with, as a consequence, that the financial impact can be considered as broadly neutral. However, there is no rationale for increasing quotas on the one hand and subsequently targeting their reduction on the other. Furthermore, this policy also had negative financial consequences for the EU budget as explained hereunder.

43. In this regard, while 300 000 tonnes of additional isoglucose quota were allocated to undertakings free of charge, the same undertakings were subsequently paid incentives to renounce their quota. By 2009, isoglucose producers renounced 222 316 tonnes of production and received restructuring aid as compensation at an estimated cost of around 97 million euro[28]. Consequently, it can be concluded that the reform paid undertakings to renounce quotas which were granted to them for free. The logic of including those additional quotas free of charge in the subsequent quota reductions is far from clear. Furthermore, the additional costs incurred in these decisions cannot be justified.

[28] Isoglucose producers were eligible to the aid for partial dismantling (unless they dismantled the whole starch plants), hence the amount is given by the compensation aid multiplied per tonne renounced in the marketing year, i.e. 547,50 euro × 32 664 renounced in 2007/08 + 468,75 euro × 60 568 tonnes renounced in 2008/09 + 390,00 euro × 129 083 renounced in 2009/10.

THE MEASURES INTRODUCED HAD A LIMITED IMPACT ON THE INDIVIDUAL COMPETITIVENESS OF GROWERS

44. The competitiveness of sugar beet growers, i.e. their ability to deliver sugar beet to the producers at competitive prices, depends on whether they can reduce their sugar beet growing costs per tonne to keep pace with the reduced sugar prices set by the reform. However, while the reforms through the Single Payment Scheme partly compensated the beet growers for the loss of revenue arising from the significant drop in the minimum prices to be paid for the sugar beet, the measures introduced had a limited impact on their individual competitiveness.

45. Indeed, for selected Member States the Commission's impact assessment examined the break-even price, i.e. the level below which on average the grower decides to switch from sugar beet to other competing crops, and highlighted that beet growers in the majority of those producing Member States had a break even significantly higher (see ***Table 3***) than the minimum price of around 26 euro per tonne set for sugar beet from October 2009.

TABLE 3

BREAKDOWN OF SELECTED MS ACCORDING TO THE ESTIMATED AVERAGE BREAK-EVEN PRICE FOR SUGAR BEET AT FARM LEVEL

Significantly higher than 25 euro/tonne		Close to 25 euro/tonne	
Member States	Break-even price euro/tonne	Member States	Break-even price euro/tonne
Finland	44	**Belgium/the Netherlands**	30
Italy	42	**Denmark**	25
United Kingdom	40	**France**	26
Austria	40	**Germany**	30
Spain	36		
Sweden	34		
Greece	34		

Source: Based on Commission SEC(2005) 808, p. 11.

46. Additionally, as sugar beet cultivation should be located in the vicinity of the factories (see paragraph 1), it is difficult for a grower to deliver to a different factory if the local one closes down. Hence in a number of cases even those growers willing or able to increase efficiency by, for instance, increasing yields per hectare were deprived of the possibility to do so if the local producer decided to close the plant. The audit identified cases of sugar factories closed by the producers due to the relatively low capacity and obsolete technology even though the growers achieved the highest yields of sugar beet per hectare.

47. In the circumstances, the reform proposals did not provide incentives to increase the competitiveness of growers intending to remain in the sector.

THE CURRENT QUOTA SYSTEM MAINTAINS PAST RIGIDITIES AND CONSTRAINTS

48. The Court's previous special report on the sugar CMO (see paragraph 18) drew attention to the rigidities linked to the quotas system and concluded that 'national quotas have prevented production moving to the most efficient areas'[29], 'normal competitive forces do not operate and in several cases sugar companies have been fined for abuses of competition'[30] and stated that the existence of barriers to entry for new sugar beet growers warranted consideration by the Commission[31].

49. In this regard a 2004 Commission Communication[32] initially proposed a sugar sector reform based on a uniform cut in quotas and intended to foster quotas transferability between producers in the EU. However, this proposal was not adopted because a majority of Member States opposed the idea of intra-Community quota transfers.

[29] Special Report No 20/2000, paragraph 72(d).

[30] Special Report No 20/2000, paragraph 83.

[31] Special Report No 20/2000, paragraph 23(d).

[32] COM(2004) 0499 final from the Commission to the Council and the European Parliament — Accomplishing a sustainable agricultural model for Europe through the reformed CAP — sugar sector reform.

50. In terms of sugar industry processing efficiency, the maintenance of rigidities and constraints incorporated into the current quota system, i.e. such as the establishment of quantitative quotas per individual grower in certain Member States, the absence of tradability of quotas and the limited possibilities for their transferability, results in undue rigidity of production capacity and reduces scope for both growers and producers to increase efficiency. The audit confirmed that in some of the audited Member States, quota restrictions hamper the entry of possible new growers and delivery rights of existing growers may not be changed without their consent. This entails significant constraints in the sugar production market.

51. While certain producers attempted to mitigate this constraint through private initiatives, overall these constraints are a limiting factor in the application of the principle of economic sustainability which the impact assessment considered should be improved by 'moving away from the principle of the apportionment of the production capacity, currently built into the sugar quota regime, towards a more competitive, more market-orientated sector'.

HAS THE SUGAR MARKET REFORM STABILISED THE MARKETS AND GUARANTEED THE AVAILABILITY OF SUGAR SUPPLIES?

52. One of the objectives of the sugar reform consisted in stabilising the markets and guaranteeing the availability of sugar supplies[33]. The Court audit examined the achievement of this objective.

PRICES ON THE EU SUGAR MARKET HAVE BEEN STABLE TO DATE AROUND THE REFERENCE PRICES

53. The audit assessed the achievement of the market balance for sugar with reference to the need for consumption to be in line with production and imports minus exports and for market prices to correspond to reference prices.

[33] The availability of supplies and stability of markets is a CAP objective which is laid down in Article 39 of the Treaty of the Functioning of the Union (so-called Lisbon Treaty), previously Article 33 of the EC Treaty, and therefore applies to the sugar CMO as well.

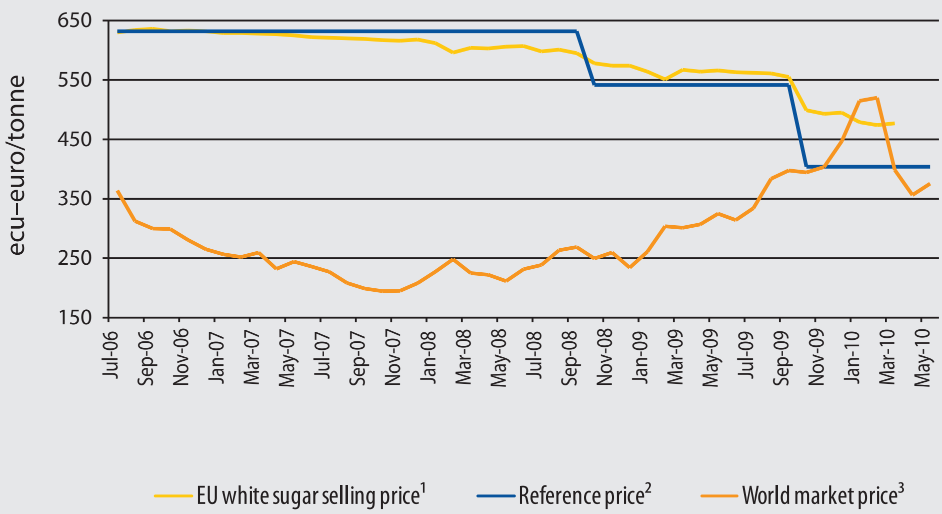
54. The audit concluded that during the first three years, the EU sugar market was stable; as shown in ***Graph 3***, price data indicate that the markets have been stable around the reference price since the start of the reform.

GUARANTEEING THE AVAILABILITY OF SUPPLY: THE LEVEL OF PRODUCTION QUOTAS IS BELOW EU CONSUMPTION AND EU IS NOW A NET IMPORTER

55. The sugar market was subjected to the twin effects of increased imports and reduced possibilities for subsidised exports. In effect, from 1 October 2009 onwards, there are no longer any quantitative restrictions imposed on imports from least developed countries (LDC's) which benefit from the Everything But Arms (EBA) initiative.

GRAPH 3

PRICES FOR WHITE SUGAR DURING THE REFORM



Notes: 1 Average price for white sugar within the Community, communicated by EU sugar producers and refiners (ex-work prices for homogeneous granulated crystal, standard quality, in bulk or big bags).

2 Reference price as stated in Council Regulation (EC) No 318/2006.

3 Quoted future prices on London Liffe market (white sugar of standard quality, free on board ship and stowed).

Source: (1-2) The Commission (Unit C.5 of DG AGRI).

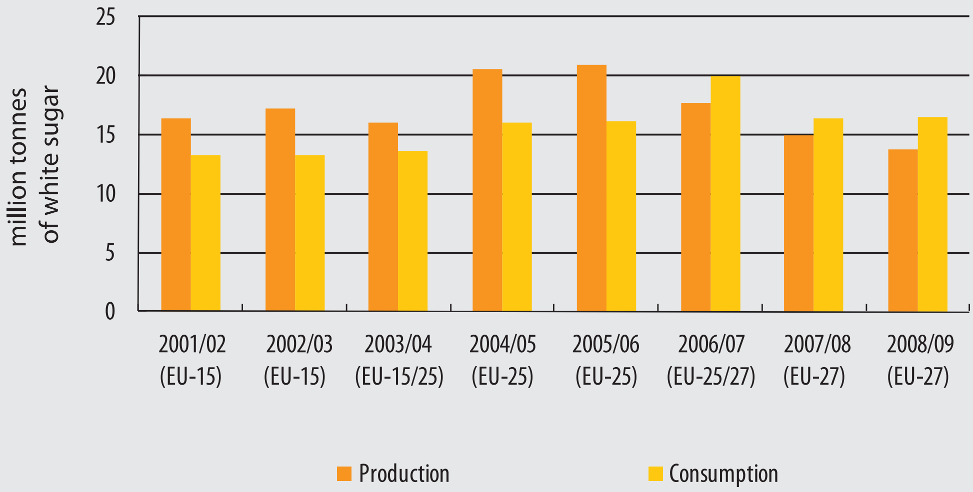
(3) L'économie sucrière 2010 and monthly statistics — ONIGC France Agrimer.

56. Therefore, the level of internal production required to meet the EU needs has become the key market stabilising factor. The reform targeted and mainly achieved the required reduction in internal production via quota renunciation, but this has changed the EU market supply from a level of sugar production significantly above the internal consumption to a level of production markedly below consumption, the EU thus becoming a net importer, EU production covering 85 % of its consumption (see ***Graph 4***).

57. Future increase in imports would have an adverse impact on the balance of the EU sugar market and the Commission may have to make use of its withdrawal mechanism to again reduce EU producers' quotas, thus further reducing the EU's sugar production capacity and likely resulting in additional factory closures. It is important to note that the lead-in time to bring production capacity on stream is relatively long and that, given the high capital costs, once capacity is reduced it is unlikely to be recovered in the short term.

GRAPH 4

EU SUGAR PRODUCTION AND CONSUMPTION FROM 2001/02 TO 2008/09



Note: Year 2006/07 (EU-25/27) has 15 months.
Source: The Commission (Unit C.5 of DG AGRI).

58. Thus, the EU has become more dependent on imports for what is a strategic product for the agri-food and chemical industries, while new uses for sugar, such as bioethanol, place increased demand on supplies. In addition, there is increased volatility of the world market where supplies are dominated by a limited number of exporting countries.

59. The available data suggests that the future availability of supplies and EU market stability will depend upon factors such as:

(a) whether producers will be able to pay growers a sufficiently high price for them to be willing to continue to supply sugar beet;

(b) to what extent third countries with which the EU has concluded bilateral trade agreements will find it attractive to export their sugar to the EU. This depends upon many factors, such as world sugar prices, transport costs, the cost of cultivating other crops, etc, and entails greater uncertainty in the supply of sugar to the EU market.

DELOCALISATION RISK

60. The increased rights of access from third countries also provide an incentive for producers to invest in those third countries. This increases therefore the risk of displacement of certain EU production facilities which would increase EU dependency on imports and would possibly have negative effects on the social fabric of the EU areas affected.

61. The Court notes that at least three EU producer groups that received aid by renouncing quotas and closing down factories in the EU have invested in sugar production facilities or signed commercial agreements in third countries to which the EU has granted trade concessions. Some producers have therefore reacted to quota reductions within the EU by importing sugar from outside the EU.

BENEFITING FROM SUGAR PRICE REDUCTIONS

62. The reform is designed to reduce prices of sugar by up to 36 %[34] and indeed the price of sugar in the EU has been following the reductions in its reference price. ***Graph 3*** showed the downward trend in sugar prices since the start of the reform.

63. One of the objectives of the common agricultural policy[35] is to ensure that supplies reach consumers at reasonable prices. Consumer price formation is a complex process with prices being influenced not only by the cost of the raw material but also by other parameters such as energy and labour costs. Consequently it is very difficult to determine to what extent the reduction in the reference price of bulk sugar sold by producers will impact on the price paid by the final consumer. The Commission stressed the need 'to ensure that downward movements in commodity prices are transmitted to consumers without delay'[36]. Nonetheless, studies[37] carried out on behalf of the Commission indicate that reductions in the price of bulk sugar are unlikely to be passed on to the final consumer. In the case of processed products, which account for over two thirds of the sugar consumption, most of the cost savings due to price reductions will be added to the profit margin of industrial producers[38]; in the case of the retail sugar price, which accounts for the remaining one third of consumption, price transmission is affected by the concentration of distribution networks[39].

64. Furthermore, following the reform, production has become even more concentrated such that 75 % of the EU internal production is now produced by only six industrial groups of companies.

[39] 'Cost differences in the sugar distribution and retailing among Member States are caused by differences in market structure (the existence of monopolistic or monopsonistic-type markets, the (ab)use of market power), and the (macro)economic and policy environment. Differences are reflected in different transport costs, labour costs, investment costs, value added and profit taxes, etc, which together make up the cost side of the distribution and retail sector. These cost differences will be reflected in differences in retail market prices.' Source: 'Evaluation of the Common Organisation of the Markets in the Sugar Sector' by the Netherlands Economic Institute, p. 77.

[34] 36 % being the difference between the pre-reform intervention price and the post-reform reference price.

[35] Article 39 of the Treaty of the Functioning of the Union (previously Article 33 of the EC Treaty).

[36] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 'Food Prices in Europe' — COM(2008) 821 Final.

[37] The 'Evaluation of the Common Organisations of the Markets in the Sugar Sector' carried out by the Netherlands Economic Institute and a study on 'Price transmission in the agri-food sector' carried out by AgraCEAS Consulting Ltd.

[38] 'It should be remarked that sugar-containing products generally show a low price elasticity of demand. Industrial producers of these products will not be very concerned about a price increase of sugar, because they can pass on the higher costs to the final consumer without a large drop in sales volume. They will generally favour a decrease of the sugar price, because this enables them to add most of the cost savings to their profit margin. There will be no strong incentive to pass on these savings to the final consumer.' Source: 'Evaluation of the Common Organisation of the Markets in the Sugar Sector' by the Netherlands Economic Institute, p. 76.

HAVE THE SPECIFIC INSTRUMENTS/MECHANISMS BEEN SUCCESSFUL IN ADDRESSING AND ALLEVIATING THE ADAPTATION PROBLEMS RELATED TO REFORM?

65. The legislative framework sets, amongst others, the objective of ensuring a fair standard of living for the agricultural community[40].

66. It was anticipated that the abandonment of sugar beet production and the closing down of factories related to the restructuring measures would have an important direct and indirect social impact on the agricultural community and regions concerned. The impact assessment predicted a significant number of job losses in the regions concerned, estimated at at least 4 500 agricultural, 24 500 industrial and 49 000 indirect jobs[41].

67. Consequently, the legislation provided for the restructuring fund to finance specific instruments/mechanisms — i.e. restructuring aid, diversification aid, and transitional aid — to face and alleviate the adaptation problems, thereby contributing to a fair standard of living for the agricultural community involved in the sugar sector.

68. The audit examined these instruments/mechanisms as detailed in the following sections.

RESTRUCTURING AID TO PRODUCERS AND THEIR SOCIAL AND ENVIRONMENTAL COMMITMENTS

69. Producers who abandoned quota production and renounced the quotas concerned were entitled to restructuring aid, calculated as a fixed amount per tonne of renounced quota[42]. In the case of sugar-quota renunciations, producers were granted roughly 90 % of the restructuring aid[43], the rest being reserved for sugar beet growers and machinery contractors. Similarly, inulin syrup producers were granted 90 % of the aid. Isoglucose producers renouncing their quota were entitled to 100 % of the restructuring aid compensation.

[40] Recital 2 of Regulation (EC) No 318/2006.

[41] Similarly, the July 2003 'Study to assess the impact of future options for the future reform of the sugar CMO' carried out by EUROCARE estimated the secondary jobs connected to sugar factories as being twice the number of direct jobs.

[42] Article 3(5) of Regulation (EC) No 320/2006.

[43] It should be noted that Article 3(6) of Regulation (EC) No 320/2006 provided for 'at least 10 %' until it was changed into '10' by Regulation (EC) No 1261/2007.

70. Sugar production within the EU is rather concentrated, so that the distribution of the restructuring aid is limited. In the eight Member States visited 45 factories were closed down, receiving restructuring aid of around 2,1 billion euro as a compensation for the renunciation of roughly 3,7 million tonnes of sugar quota (***Annex IV***).

71. Producers that gave up their quota production were required to respect their social and environmental commitments. In this regard, the governing regulations foresaw that the application for restructuring aid should include 'a social plan detailing the actions planned in particular with respect to re-training, redeployment and early retirement of the workforce concerned'[44].

Wide variations in the restructuring aid net of direct dismantling cost

72. Restructuring aid was not intended and did not reimburse only the direct cost of dismantling factories. According to the Commission, the aid was also intended to meet the economic, social and environmental consequences linked to quota reduction. The audit examined the relationship between restructuring aid granted to producers in the audited Member States and their budgeted direct closure costs, i.e. closure costs excluding possible quotas valorisation. The audit identified that there was no clear definition of which costs had to be included in the Restructuring Plans and that the costs budgeted were not comparable amongst Member States. Consequently, the data available indicate very wide variations ranging from a net surplus of 390 euro per tonne renounced compared to the net closure costs to a net deficit of 226 euro per tonne (***Annex IV***).

[44] Article 4(3)(f) of Regulation (EC) No 320/2006.

Inadequate monitoring of social obligations

73. As a result of the reform, some 80 factories were closed across the EU. Member States were not required by the Commission to report on the direct social impact of the production facility dismantlement. The audit found that such information is not consistently available to the Commission and there is no comprehensive data on the impact of quota renunciations on the local economies, on how many jobs were lost or alternative employment of the staff previously employed at the factories which were dismantled. This hampers the assessment of the overall effect of the reform on the regions concerned.

Delays in environmental obligations

74. The closure of production facilities also entails serious environmental challenges, hence the governing regulations provide that the closure of production facilities is accompanied by appropriate measures to dismantle production facilities and restore the environmental condition of the factory sites. The audit found, however, that there were cases of serious delays and increasing uncertainty as regards the timely compliance of the producers with those environmental obligations. In December 2009 the Commission amended the legislation to allow for an extension of the deadlines until September 2011[45].

RESTRUCTURING AID TO GROWERS AND MACHINERY CONTRACTORS AFFECTED BY THE RENUNCIATIONS

75. In the case of sugar-quota renunciation, which covers the vast majority of quota renunciation, a part of the restructuring aid (at least 10 % until 2007, 10 % from 2007 onwards) was to be reserved for sugar beet growers affected by the renunciations and machinery contractors who provided them with specialised services[46]. Similarly, a part of the aid was reserved for chicory growers affected by inulin syrup quota renunciations. On the other hand, no aid was reserved for maize growers when isoglucose producers renounced their quota. The allocations were decided upon by the national authorities following consultations with representatives of growers and, where they existed[47], contractors. In 2007 a one-off payment of 237,50 euro per tonne foregone was granted[48] to the affected growers, which constituted the lion’s share of the compensation they received.

[45] Commission Regulation (EU) No 1204/2009 of 4 December 2009 amending Regulation (EC) No 968/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community (OJ L 323, 10.12.2009, p. 64).

[46] Article 3(6) of Regulation (EC) No 320/2006, as amended by Regulation (EC) No 1261/2007.

[47] In Poland, there was no association of machinery contractors, so the national authorities selected three contractors for consultations.

[48] Regulation (EC) No 1260/2007.

DIVERSIFICATION AID

76. As a result of the reform, some 80 sugar factories were closed. Sugar factories have a strong territorial link with the surrounding community. Particularly when the factories are located in remote and disadvantaged areas, their closure can provoke significant negative consequences for the social fabric of the areas affected.

77. There is no legal definition as to who is included in the concept of 'agricultural community'. Nonetheless it is assessed that as a result of the sugar reform, the wider local community was affected rather than just the key stakeholders of the sugar sector, which were earmarked in the regulation to receive the aid (producer and its employees, growers, machinery contractors).

78. The legislation provided for aid, amounting to 675 million euro, to encourage the development of alternatives to sugar beet and sugar production in regions affected by the restructuring of the sugar industry (see breakdown by Member States in ***Annex V***).

— The aid for diversification[49] is primarily to finance measures intended to be identical to those supported under Axis 1 and Axis 3 on support by the European Agricultural Fund for Rural Development[50]. Typically these would finance specific projects to increase the competitiveness of the agricultural and forestry sector, to improve the quality of life in rural areas or to diversify the rural economy.

— An additional aid for diversification[51] is granted to a Member State once the quota renunciations are above 50 %, and is increased when the percentage is higher. The aid could be granted in the same way as diversification aid or may be paid directly to growers.

79. Member States which decide to grant aid for diversification shall establish national restructuring programmes detailing the diversification measures to be undertaken in the regions concerned and inform the Commission of these programmes. The Commission is not requested to approve the programmes.

[49] Article 6 of Regulation (EC) No 320/2006.

[50] Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

[51] Article 7 of Regulation (EC) No 320/2006.

80. The analysis of the national restructuring plans established by the Member States indicate that the allocation of diversification aid was based on a wide variety of criteria between Member States, as shown in ***Annex VI***.

81. Additionally, the Court noted delays in certain Member States in the implementation of these measures, intended to develop alternatives to sugar beet growing and sugar production, that have yet to become fully operational. This delay caused a time lag of several years between factory closure and economic alternatives being operational, if at all. In December 2009 the Commission amended the legislation to allow for an extension of the deadline to implement the measure until September 2011[52].

82. Moreover, the Commission has no overview of the impact on regions affected of the diversification aid, although Member States are required to communicate to the Commission annual progress reports concerning, inter alia, the national restructuring programmes[53]. However, the Commission has not established procedures to systematically review and evaluate this information[54].

TRANSITIONAL AID TO FULL TIME REFINERS

83. The legislation provided for a transitional aid to be granted to full time refiners (150 million euro) so as to allow them to adapt to the restructuring of the sugar industry[55]. Full-time refiners mean production units which refined imported raw cane sugar either as their sole activity or above a certain threshold[56].

84. These aids were not part of the Commission's initial proposals but were subsequently introduced after Council discussions. The aid was paid to a very limited number of refiners (seven in total) for amounts varying from 1,5 to 94 million euro per refinery.

[52] Regulation (EU) No 1204/2009.

[53] Article 24 of Regulation (EC) No 968/2006.

[54] The only checks carried out by the Commission in the Member States are those of the Clearance of Account unit of DG AGRI on their compliance with Regulations.

[55] Article 8 of Regulation (EC) No 320/2006.

[56] Article 2 of Regulation (EC) No 320/2006.

85. The audit found no evidence that the aid was based on a technical assessment of the needs of refiners and that the calculation of the amounts of aid was based on objective criteria. Furthermore, the vagueness of the objectives to be achieved (adapt to the restructuring of the sugar industry)[57] and of the actions which could be included in the business plan to receive the aid (including contributions to operational costs and other provisions considered to be necessary)[58] makes it impossible to evaluate the efficiency or effectiveness of the aid. Indications are that the aid was mainly of the nature of compensation for full-time refiners of imported raw cane sugar for the future loss of their monopoly in raw sugar imports. The Commission regulation merely refers to the loss of 'certain benefits'[59] which were previously held.

86. In most of the MS concerned there is only one potential beneficiary. This pre-empted the legislative provision that Member States shall grant the aid on the basis of objective and non-discriminatory criteria[60].

THE COST OF THE SUGAR REFORM

IT IS LIKELY THAT AN AMOUNT WILL BE AVAILABLE IN THE RESTRUCTURING FUND TO BE ASSIGNED TO THE EAGF

87. According to the legislative provisions[61] 'any amount that may be available in the restructuring fund after the financing of the expenditure referred to in paragraph 2 shall be assigned to the EAGF.'

88. The low rate of quota renunciations, particularly in the second year of the reform, resulted in more income from temporary restructuring amounts than had been anticipated by the Commission. Any funds remaining in the restructuring fund when it is closed in September 2012 will be assigned to the EAGF. It is currently estimated that around 640 million euro will remain available.

[57] Article 8 of Regulation (EC) No 320/2006.

[58] 'Investments, dismantling of production facilities, contributions to operational costs, provisions for depreciation of equipment and other provisions considered to be necessary in order to adapt to the new situation' (Article 15 of Regulation (EC) No 968/2006).

[59] Regulation (EC) No 968/2006 implementing Regulation (EC) No 320/2006, Recital 10: 'In order to make it easier for full-time refiners **who have lost certain benefits which they held** under Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector to adapt to the new situation following the entry into force of Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector, Regulation (EC) No 320/2006 introduces a transitional aid allocated in those Member States where refiners within the meaning of Regulation (EC) No 1260/2001 were established in the past.'

[60] Article 8(3) of Regulation (EC) No 320/2006.

[61] Article 1 of Regulation (EC) No 320/2006.

OTHER FACTORS AFFECTING THE OVERALL COST

89. When it proposed the reform, the Commission estimated the cost to the EU budget of the sugar CMO for the seven years from 2007 to 2013 at 10,7 billion euro[62]. This is equal to approximately seven times the expenditure of the sugar CMO in 2006. On this basis, the Commission stated that the expenditure included in the agriculture section of the budget would equal that of the previous CMO[63].

90. However, the Court notes that there are two other issues related to the sugar market which impact the EU budget for a total of 1,2 billion euro, although they are not directly charged to the agricultural section of the budget:

(a) the production levy[64] that amounted to 498 million euro in 2006 was abolished and replaced by a flat-rate charge of 12 euro per tonne. However, due to the Community's international commitments, the level of production levies as of 2006 would not have been maintained, as these levies were applicable only to the production exceeding consumption, and

(b) 1,2 billion euro has been earmarked during the seven-year period for accompanying measures for the sugar protocol countries. This aid has been proposed to the ACP countries for the loss of income due to the lower prices received for their historical preferential imports. Since this is included under title 21 'Development and relations with ACP States', it has not been considered to be part of the sugar CMO.

91. The sugar reform was designed to be budget neutral. In this context, the Court notes that if the above costs are taken into account, the overall cost to the EU budget after the reform for the period 2007–13 is likely to be 1,2 billion euro higher than before the reform.

[62] This includes forecasts made for the 2007–2013 Financial Framework. The budget thereafter is subject to a future agreement.

[63] Section 5 on the budgetary impact of the proposals for the reform in the Commission's proposal, COM(2005) 263 final.

[64] Production levy could be for a part of quotas (so-called B quota) up to 39,5 % of intervention price (631 euro per tonne), i.e. up to 249 euro per tonne (Article 15 of Regulation (EC) No 1260/2001).

CONCLUSIONS AND RECOMMENDATIONS

92. The reform of the sugar market was considered necessary in order to align the sugar sector with the fundamental principles of the new common agricultural policy of increased market orientation and to comply with the Union's international commitments.

93. The reform pursued a variety of objectives, which were partly conflicting and therefore difficult to fulfil simultaneously. The Court's audit assessed the extent to which the principal objectives have been achieved to date.

HAS THE SUGAR MARKET REFORM ENSURED THE FUTURE COMPETITIVENESS OF THE EU SUGAR INDUSTRY?

94. The reform targeted a significant reduction (6 million tonnes) of unprofitable production capacity in the Community by introducing an important economic incentive for sugar undertakings with the lowest productivity to give up their quota production. The rationale was that the renunciation of low productivity production facilities would increase the average productivity and thus ensure the future competitiveness of the EU industry. However, neither the Commission nor the Member States had data available on the relative productivity of the individual producers. At the same time, some additional quota of 1,5 million tonnes was made available mostly for purchase, aimed at the more efficient producers.

95. Producers, in the first two years of the reform, voluntarily renounced only 2,2 million tonnes indicating that the incentives offered were not deemed to be sufficiently attractive by targeted producers. Therefore, in 2007 several modifications were made to the reform process creating a strong incentive for all producers to renounce at least a certain percentage of their quota. Thus, while the targeted quota reduction was achieved, it could not be achieved only by the cessation of production by the least competitive factories.

96. The audit found cases of undertakings renouncing the additional sugar quotas they had obtained or purchased. There is no rationale in initially making available additional quotas and later striving to reduce them. Moreover, in the case of additional isoglucose quota, undertakings were paid even when they renounced quotas which had just been granted for free. The costs involved amounting to around 97 million euro cannot be justified.

97. While the reforms partly compensated the beet growers for the loss of revenue arising from the significant drop in the minimum prices to be paid for the sugar beet, the measures introduced had limited impact on their individual competitiveness.

98. Furthermore, as already observed by the Court in its previous report[65], the maintenance of rigidities and constraints incorporated into the current quota system results in undue rigidity of production capacity and reduces scope for both growers and producers to increase efficiency.

99. Overall it can be concluded that the objective of stabilising the market via a voluntary reduction of quota production of 6 million tonnes was given priority over the objective of reduction of unprofitable production capacity in the Community. Consequently, the reform process did not fully ensure the future competitiveness of the EU sugar industry. Accordingly, it is likely that the prevailing external pressures will continue to weigh heavily on the EU sugar sector.

RECOMMENDATION 1

The prevailing external pressures may require the Commission to propose further adjustments of internal production. In such a case, the Court recommends that instruments and measures should be designed so as to ensure overall consistency and be based on thorough technical assessments of needs and objective and non-discriminatory criteria.

[65] Special Report No 20/2000 concerning the management of the common organisation of the market for sugar.

RECOMMENDATION 2

In view of the importance of sugar production in the agricultural economy, the Court recommends that the Commission proposes measures to remove the rigidities and constraints in the current quota system which affect adversely the competitiveness of growers and producers.

HAS THE SUGAR MARKET REFORM STABILISED THE MARKETS AND GUARANTEED THE AVAILABILITY OF SUGAR SUPPLIES?

100. The sugar market was subjected to the twin effects of increased imports and reduced possibilities for subsidised exports. In the circumstances, the level of internal production required to meet the EU needs has become the key market-stabilising factor. Future increases in imports are likely to trigger further withdrawals of quotas with the consequent further reduction of EU sugar production.

101. The Court concludes that while market stability has been assured thus far, it has been achieved through the use of production quotas which currently set the maximum allowed internal production at a level approximately 85 % of EU consumption for what is a strategic product for the agri-food and chemical industries, thus increasing the EU dependence on imports, while world market supplies are dominated by a limited number of exporting countries.

RECOMMENDATION 3

The Court recommends that possible future decisions which impact EU sugar production take into account the level of internal sugar production which is considered necessary given the Treaty objective of assuring availability of supply.

102. Supplies should reach consumers at reasonable prices[66]. The reform is designed to reduce prices of sugar by up to 36 %[67]. Because of the complex process of price formation, it is very difficult to determine to what extent the reduction in the reference price of bulk sugar will impact on the price paid by the final consumer. While the Commission stressed the need to ensure that downward movements in commodity prices are transmitted to consumers without delay, studies carried out on its behalf indicate that reductions in the price of bulk sugar are unlikely to be passed on to the final consumer.

[66] Article 33 of the EC Treaty, which became Article 39 of Treaty of the Functioning of the Union (so-called Lisbon Treaty) sets that one of the objectives of the common agricultural policy is to ensure that supplies reach consumers at reasonable prices.

[67] 36 % being the difference between the pre-reform intervention price and the post-reform reference price.

RECOMMENDATION 4

While acknowledging that price formation in the food sector is particularly complex, the Court considers that it must be subject to regular monitoring by the Commission. The Commission and the Member States must ensure that competition law is correctly enforced in the sector thus ensuring the Treaty objective that supplies reach consumers at reasonable prices.

HAVE THE SPECIFIC INSTRUMENTS/MECHANISMS BEEN SUCCESSFUL IN ADDRESSING AND ALLEVIATING THE ADAPTATION PROBLEMS RELATED TO REFORM?

103. The abandonment of sugar beet production and the closing down of factories have an important direct and indirect impact on the agricultural community and regions concerned including a significant number of job losses. The legislation provided for the temporary restructuring fund to finance specific instruments to face and alleviate the adaptation problems.

104. The audit found that neither the Commission nor the Member States concerned had put in place an adequate follow-up of the social consequences of the restructuring. There is thus no comprehensive data on the impact of quota renunciations on the local economies.

105. Furthermore, in various Member States the diversification aid measures had yet to become fully operational at the moment of the audit visits. The time lag between the factory closures and the implementation of diversification measures may result in hardship in those regions affected.

106. The closure of production facilities had to be accompanied by appropriate measures to dismantle production facilities and restore the environmental condition of the factory sites. The audit found, however, cases of delays as regards the compliance of the producers with those environmental obligations.

107. Regarding the transitional aid to be granted to full-time refiners, the audit found no data to indicate that the aid was based on a technical assessment of needs and that the calculation of the amounts of aid was based on objective criteria.

108. Overall, it is not yet possible to conclude on the extent to which the instruments put in place have mitigated the significant direct and indirect social and economic impact on the agricultural community in the regions affected.

RECOMMENDATION 5

The Court recommends that the Commission and the Member States take urgent measures to ensure the diversification measures become rapidly operational and produce the intended impact to promote alternatives to sugar beet and sugar production.

RECOMMENDATION 6

The Court recommends that the Commission and the Member States become more actively involved in ensuring that the environmental obligations entered into by the closed factories are fully complied with.

COST OF THE REFORM

109. The Court notes that if additional costs, not directly charged to the agricultural section of the budget, namely the cost of accompanying measures for the ACP sugar protocol countries are taken into account, the overall cost to the EU budget after the reform for the period 2007–13 is likely to be 1,2 billion euro higher than before the reform.

This Report was adopted by Chamber I, headed by Mr Michel CRETIN, Member of the Court of Auditors, in Luxembourg at its meeting of 21 July 2010.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

OVERVIEW OF THE ACTUAL REVENUE AND ESTIMATED EXPENDITURE OF THE RESTRUCTURING FUND

(million euro)

Member State	Total revenue	Expenditure			
		Restructuring aid[1]	Diversification aid[2]	Transitional aid[3]	Total
	(A)	(B)	(C)	(D)	(E) = (B) + (C) + (D)
Belgium	339	331	19	0	350
Bulgaria	13	2	1	0	3
Czech Republic	166	88	11	0	99
Denmark	163	37	8	0	45
Germany	1 350	639	71	0	710
Ireland	0	187	44	0	231
Greece	88	130	26	0	156
Spain	346	454	70	0	524
France	1 354	611	64	25	700
Italy	293	981	167	0	1 148
Latvia	8	59	15	0	74
Lithuania	40	17	2	0	19
Hungary	152	260	52	0	312
Netherlands	344	177	12	0	189
Austria	152	25	5	9	39
Poland	657	288	34	0	322
Portugal	10	34	15	24	73
Romania	32	10	0	0	10
Slovenia	7	51	12	2	65
Slovakia	76	77	16	0	93
Finland	45	64	7	5	76
Sweden	128	63	9	5	77
United Kingdom	466	165	15	94	274
TOTAL	6 229	4 750	675	164	5 589

[1] Also includes the retroactive payment.

[2] Includes both aid for diversification and additional aid for diversification.

[3] As per Articles 8 and 9 of Council Regulation (EC) No 320/2006 (Transitional aid for full-time refiners and certain Member States).

Source: The Court's auditors used the renunciation figures provided by the Commission (Unit C.5 of DG AGRI) to calculate the above amounts.

ANNEX II

OVERVIEW OF QUOTAS RENOUNCED BY THE MEMBER STATES

A — SUGAR

(tonnes of white sugar)

Member State	Initial quotas[1]	Quota renounced for given marketing year				Quotas available from marketing year 2009/10	Percentage of total quotas renounced
		2006/07	2007/08	2008/09	2009/10		
	(A)	(B)	(C)	(D)	(E)	(F) = (A+B+C+D+E)	(G) = Σ(B+C+D+E)/A
France[2]	4 120 687			-683 655		3 437 032	16,6 %
Germany	3 655 456			-757 200		2 898 256	20,7 %
Poland	1 772 477			-366 869		1 405 608	20,7 %
United Kingdom	1 221 474			-165 000		1 056 474	13,5 %
Netherlands	931 435			-126 547		804 888	13,6 %
Belgium	882 301			-206 066		676 235	23,4 %
Italy	1 557 443	-778 737	-24 861	-245 467		508 378	67,4 %
Spain	996 961	-93 119	-16 679	-256 578	-132 106	498 479	50,0 %
Czech Republic	474 932		-102 473			372 459	21,6 %
Denmark	452 466			-80 083		372 383	17,7 %
Austria	405 812			-54 785		351 027	13,5 %
Sweden	385 984	-42 562		-50 236		293 186	24,0 %
Greece	317 502		-158 800			158 702	50,0 %
Slovakia	216 037		-70 133	-33 584		112 320	48,0 %
Hungary	406 684		-108 093	-193 171		105 420	74,1 %
Romania[3]	109 164			-4 475		104 689	4,1 %
Lithuania	111 010			-20 758		90 252	18,7 %
Finland	146 087		-56 087	-9 001		80 999	44,6 %
Portugal[4]	79 671	-35 218	-19 500	-15 000		9 953	87,5 %
Slovenia	52 973		-52 973			0	100,0 %
Latvia	66 505		-66 505			0	100,0 %
Ireland	199 260	-199 260				0	100,0 %
Bulgaria[3]	4 752			-4 752		0	100,0 %
TOTAL	**18 567 073**	**-1 148 896**	**-676 104**	**-3 273 227**	**-132 106**	**13 336 740**	**28,2 %**
		Total sugar quotas renounced = 5 230 333					

1 'Initial quota' equals initial quota allocated to Member States as per Annex III of Regulation (EC) No 318/2006 for marketing year 2006/07 together with additional purchased in 2006/07 and 2007/08.
2 Quotas for French overseas departments included (480 245 tonnes).
3 Quotas available only from 2007/08 (new MS that joined the EU in 2007).
4 Quotas for the autonomous region of the Azores included (9 953 tonnes).

B — INULIN SYRUP

(tonnes of sugar equivalent)

Member State	Initial quotas[1]	Quota renounced for given marketing year				Quotas available from marketing year 2009/10	Percentage of total quotas renounced
		2006/07	2007/08	2008/09	2009/10		
	(A)	(B)	(C)	(D)	(E)	(F) = (A+B+C+D+E)	(G) = (B+C+D+E)/A
Belgium	215 246	-215 246				0	100,0 %
Netherlands	80 950	-80 950				0	100,0 %
France	24 521	-24 521				0	100,0 %
TOTAL	**320 717**	**-320 717**	**0**	**0**	**0**	**0**	**100,0 %**
		Total inulin syrup quotas renounced = 320 717					

C — ISOGLUCOSE

(tonnes of dry matter)

Member State	Initial quotas[1]	Quota renounced for given marketing year				Quotas available from marketing year 2009/10	Percentage of total quotas renounced
		2006/07	2007/08	2008/09	2009/10		
	(A)	(B)	(C)	(D)	(E)	(F) = (A+B+C+D+E)	(G) = (B+C+D+E)/A
Hungary	220 266					220 266	0,0 %
Belgium	114 580					114 580	0,0 %
Bulgaria[2]	89 198					89 198	0,0 %
Slovakia	68 095					68 095	0,0 %
Germany	56 638					56 638	0,0 %
Spain	131 423		-5 000	-3 000	-69 613	53 810	59,1 %
Poland	42 861					42 861	0,0 %
Italy	32 493					32 493	0,0 %
Portugal	15 871			-3 371		12 500	21,2 %
France	27 664		-27 664			0	100,0 %
United Kingdom	43 592				-43 592	0	100,0 %
Netherlands	14 563			-14 563		0	100,0 %
Greece	20 636			-20 636		0	100,0 %
Romania[2]	15 879				-15 879	0	100,0 %
Finland	18 999			-18 999		0	100,0 %
TOTAL	**912 758**	**0**	**-32 664**	**-60 569**	**-129 084**	**690 441**	**24,4 %**
		Total isoglucose quotas renounced = 222 317					

[1] 'Initial quota' equals initial quota allocated to Member States as per Annex III of Regulation (EC) No 318/2006 for marketing year 2006/07 together with additional quotas allocated from 2006/07, 2007/08, 2008/09.

[2] Quotas available only from 2007/08 (new MS that joined the EU in 2007) together with additional quotas allocated till 2009/10.

Source: ECA based on data by the Commission (DG AGRI).

ANNEX III

BREAKDOWN OF MEMBER STATES BY THEIR COMBINED PROFITABILITY AND SUGAR QUOTA RENOUNCED

(tonnes of white sugar)

Member State	Level of combined profitability[1]	Actual impact of the reform					
		Initial quotas[2]	Quota renounced in the first two years	Quota renounced for 2008/2009[3]	Percentage of initial quota renounced	Percentage of the total quota renounced	Quota available from 2009/2010
		(A)	(B)	(C)	(D) = (B+C)/(A)	(E) = (B+C)/ total B+total C	(F) = A+B+C
Ireland Greece Italy Portugal (mainland)	Low	2 143 923	-1 216 376	-260 466	68,9 %	28,2 %	667 081
Czech Republic Denmark Spain[3] Latvia Lithuania Hungary Slovakia Slovenia Finland	Medium	2 923 655	-566 062	-725 282	44,2 %	24,7 %	1 632 311
Belgium Germany France (metropolitan) Netherlands Austria Poland Sweden United Kingdom	High	12 895 381	-42 562	-2 410 358	19,0 %	46,9 %	10 442 461
Other Member States[4]	Not included	604 114	0	-9 227	1,5 %	0,2 %	594 887
	TOTAL	**18 567 073**	**-1 825 000**	**-3 405 333**	**28,2 %**	**100,0 %**	**13 336 740**

1 Breakdown of Member States according to combined profitability which would affect their likely reduction in sugar production (Table 3 in the Commission 'Update of impact assessment' [SEC(2003) 1022]).

2 The 'Initial quota' equals the initial quota allocated to Member States as per Annex III of Regulation (EC) No 318/2006 for marketing year 2006/07 together with additional quotas purchased in 2006/07 and 2007/08.

3 Quotas of 132 106 tonnes renounced in Spain for marketing year 2009/10 are included under 2008/09.

4 'Other Member States' includes Romania, Bulgaria, French overseas departments and the autonomous regions of the Azores.

Source: The Commission (Unit C.5 of DG AGRI).

ANNEX IV

OVERVIEW OF THE AID AVAILABLE TO PRODUCERS AND THEIR DIRECT CLOSURE COSTS

Member States audited	Czech Republic	Germany	Ireland	Greece[1]	Spain	France	Italy	Poland
No of sugar factories closed	3	5	1	2	7	5	14	8
(A) No of sugar quotas renounced for the factories closed (1 000 tonnes of white sugar)	102	736	199	159	498	651	1 049	296

(million euro)

(B) Total restructuring aid available to the producer — incl. retroactive payment for the factories closed	**58**	**415**	**127**	**72**	**277**	**358**	**666**	**166**
(C) Total direct closure costs[2]	**48**	**178**	**172**	**21**	**266**	**104**	**450**	**98**
relating to assets, stocks and stores write-offs	22	67	108	4	165	42	237	51
relating to social costs (redundancy, pension, training, redeployment)	8	49	42	5	62	37	67	15
relating to dismantling and other closure costs	18	62	22	12	39	25	146	32
Difference between the restructuring aid and the direct closure costs (B-C)	**10**	**237**	**-45**	**51**	**11**	**254**	**216**	**68**
Restructuring aid per tonne renounced net of direct closure costs (B-C)/A	**98**	**322**	**-226**	**321**	**22**	**390**	**206**	**230**

1 The two factories should be converted into biomass production units (only aid for partial dismantling was applied for).

2 Losses of future profits were not regarded as being direct closure costs.

Source: Restructuring plans and progress (final) reports submitted by the producers in the audited Member States.

ANNEX V

IMPLEMENTATION OF THE DIVERSIFICATION AID

(euro)

Member States	Diversification aid allocated for 2006–10[1]		
	Aid for diversification	Additional aid for diversification	Total
(A)	(B)	(C)	(D) = (B)+(C)
Belgium	19 328 991	0	19 328 991
Bulgaria	445 738	445 738	891 475
Czech Republic	11 220 772	0	11 220 772
Denmark	7 511 785	0	7 511 785
Germany	71 025 341	0	71 025 341
Ireland	21 818 970	21 818 970	43 637 940
Greece	17 388 600	8 694 300	26 082 900
Spain	46 394 042	23 197 021	69 591 063
France (metropolitan)	64 126 854	0	64 126 854
Italy	111 018 706	55 509 353	166 528 059
Latvia	7 282 298	7 282 298	14 564 595
Lithuania	1 947 100	0	1 947 100
Hungary	29 955 623	22 466 717	52 422 341
Netherlands	11 870 109	0	11 870 109
Austria	5 138 833	0	5 138 833
Poland	34 412 305	0	34 412 305
Portugal (mainland)	7 398 621	7 398 621	14 797 242
Romania	419 772	0	419 772
Slovenia	5 800 544	5 800 544	11 601 087
Slovakia	10 829 743	5 414 871	16 244 614
Finland	6 985 820	0	6 985 820
Sweden	9 372 676	0	9 372 676
United Kingdom	15 477 000	0	15 477 000
TOTAL	**517 170 242**	**158 028 432**	**675 198 674**

[1] Diversification aid represents both aid for diversification (Article 6 of Regulation (EC) No 320/2006) and the additional aid for diversification (Article 7 of Regulation No 320/2006).

Source: The Commission (Unit C.5 of DG AGRI).

ANNEX VI

EXAMPLES OF VARIETY OF CRITERIA BETWEEN MEMBER STATES IN THE ALLOCATION OF DIVERSIFICATION AID

The allocation of diversification aid was based on a wide variety of criteria between Member States, for example:

— in Ireland, all diversification aid was granted to growers who had lost their delivery rights without their needing to demonstrate any diversification costs;

— in the Czech Republic, growers also received all diversification aid but it was limited to part of the cost of newly acquired agricultural machinery;

— in Italy and Poland, diversification aid was allocated to diversification projects carried out by growers and other types of beneficiary, mainly small and medium enterprises;

— in France, Germany and Spain, the regional authorities allocated diversification aid to a variety of rural development-style measures, benefiting growers, small and medium enterprises and local authorities.

ANNEX VII

GLOSSARY OF KEY TERMS AND ABBREVIATIONS

ACP: Africa, Caribbean and Pacific

Beet sugar and cane sugar: sugar is manufactured either from sugar beet or from sugar cane. Cane (a type of reed) is normally grown in tropical regions and beet (a root) crop traditionally in temperate regions, although there is growing interest in promoting tropical sugar beet. Maximum sugar yields per hectare are potentially higher for the cane but this may be partly offset by the beet's shorter production cycle. Currently, 80 % of world sugar production is based on cane.

Bioethanol from cane or beet: is obtained after fermentation of the raw juice (immediately after extraction from sugar cane or sugar beet) or thick juice (result of further processing including a concentration phase, which allows for intermediate storage) and distillation; the production process does not include production of sugar in solid form. Bioethanol may also be obtained from other crops; it may be used as fuel or as a fuel additive.

CAP: common agricultural policy

CMO: Common Market Organisation

C Sugar: see under '**Quotas A, B and so-called C sugar**'

Direct payments: payments directly granted to farmers under an income support scheme (such as the single payment scheme listed in Annex I of Council regulation (EC) No 1782/2003). Such payments could be coupled (i.e. linked to a specific production) or decoupled, based on entitlements based on receipts during historical reference periods.

Everything but arms (EBA): a unilateral initiative adopted by the Council as Regulation (EC) No 416/2001; it allows duty-free and quota-free access to the European market for all products, except arms and arm munitions, originating in the least developed countries (LDCs: a category of countries established by the United Nations on the basis of specific development indicators); it is incorporated in a multiannual generalised scheme of tariff preferences. That initiative was presented as an all-sector extension of a preference already existing in most areas of the trade with LDCs: therefore, a high impact for the EU was not expected, except in the case of bananas, rice and sugar, so that full implementation was postponed for these for a transitional period ending 2006 for bananas and 2009 for rice and sugar.

Export refunds: mechanism of market support that consists in enabling producers or traders to export agricultural products available at prices higher than world market selling prices, by paying a subsidy compensating the difference between internal prices and export prices on each export operation.

Import duties: mechanism of market support that consists in collecting a specified taxation on quantities imported from the world market, thus making the price of these higher as compared to domestic production. Under a multilateral trade agreement in 1995, import duties have been partly dismantled for agricultural world trade and negotiations are underway at the World Trade Organisation (WTO) for further dismantling.

Intervention (public storage): mechanism of market support that consists in enabling producers to sell an agricultural product in the Member State (Intervention Agency) at a price established by a Council regulation; this intervention price then operates as a minimum price on the domestic market. Initially, unlimited quantities were eligible to this mechanism. As regards the sugar sector, the 2006 reform first restricted this to limited quantities subject to discounted prices, then abolished the mechanism.

Inulin and inulin syrup: inulin is a fibre (made of a chain of fructose molecules) present in a number of plants. Industry extracts it from the chicory root. Hydrolysis of the inulin is a way to obtain fructose and the result of this process, a sweetener called inulin syrup, is included in the EU sugar common market organisation. Its 2006 production quota was about 321 000 tons (a 1,5 % market share). N.B. Inulin is not related to insulin which is a hormone contributing to blood sugar control.

Isoglucose: also known as HFCS (high fructose corn syrup), it is a sweetener obtained through the processing of glucose whereby part of it is converted into fructose so as to obtain a syrup similar to that resulting of the hydrolysis of sugar (which converts sucrose into its glucose and fructose components); standard qualities contain 42 % and 55 % fructose. Glucose used to that end is a sweetener too, that has specific uses in food industries; it results from processing of starch; the latter is usually extracted from maize but the starch industry can use wheat or potatoes as well. Being a competitor to sugar in significant uses such as soft drinks, isoglucose is included in the EU sugar common market organisation: its post-reform production quota was about 508 000 tons (a market share under 3 % in EU-25).

LDC: least developed countries

Market support: maintaining the domestic market price for agricultural products at a higher level than would be caused by world market forces (differently from direct income support). To this end measures such as import duties, export refunds and intervention with public storage have been used. In previous CAP reforms, as well as in the sugar 2006 reform, the level of market support was reduced and this was compensated by direct support to farmers, such as under the single payment system.

Minimum beet price: the Council Regulation (EC) No 318/2006 establishes a minimum beet price and makes it compulsory for sugar producers to pay the beet growers a price not lower than that for the sugar beet of a standard quality intended for processing into quota sugar; its level is based on that of the sugar reference price; this mechanism aims at ensuring that the market support for the sugar benefits the farmers.

Quotas (production quotas): mechanism of market support that essentially aims at avoiding surpluses by allocating to each producer a limited market share. Production exceeding quota may be subject to a penalty or to compulsory storage, or eligible to a specific use (such as unsubsidised export, as in the sugar sector). In the sugar sector quotas can be transferred between producers in the same Member State (within limits) but cannot be transferred between producers located in different Member States.

Quotas A, B and so-called C sugar: it refers to the sugar quota system prior to the 2006 reform: 'A' quotas roughly corresponded to the European Community consumption needs and 'B' quotas, a fixed percentage of A quota, corresponded to the quantities which could be exported with export refunds. B quotas were subject to a significant production levy to finance the cost of export refunds, while A quotas were subject to a much lower levy. Out-of-quota production, so-called 'C' sugar, was sugar produced in excess of the combined total of A and B quotas and it was exported without refund.

Reference price for sugar: reference prices have been established in Council Regulation (EC) No 318/2006, for raw sugar and for white sugar; they are not prices guaranteed to producers but some specific market support measures may be triggered by the Commission when actual market prices differ from the reference price by more than a certain percentage.

SPS: Single Payment Scheme

Sugar, raw and white: white sugar is defined as sugar with a sucrose (the chemically pure molecule which composes sugar) content of at least 99,5 %; raw sugar standard quality is a 96 % sucrose content, although this is generally higher, and it has a light beige to medium brown colour. Raw sugar is usually produced from sugar cane, while white sugar is obtained either directly from the processing of the sugar beet or sugar cane, or from further processing (refining) of the raw sugar. White sugar is the standard form in consumption but smaller quantities of raw sugar are also used (mainly for colour or for sugar cane flavour).

WTO's DSB: Dispute Settlement Body of the World Trade Organisation.

REPLY OF THE COMMISSION

SUMMARY

I.–III.
The 2006 reform of the EU sugar market has successfully managed the restructuring of the sector, providing it with a long-term policy framework and considerably improving its competitiveness. EU sugar producers are now operating in an environment with institutional prices reduced by 36 %, and production is more concentrated in high profitability regions.

The key elements of the reform were a substantial reduction of the institutional prices and a temporary restructuring fund aimed at compensating operators for giving up production quota and helping counterbalance the potential negative social and environmental effects of the reform. This created an incentive for the least competitive sugar producers to renounce their quotas. Moreover, in order to further promote the competitiveness of the EU sugar producing sector, additional quotas were made available to EU operators in exchange for a one-off payment.

The reform has been budget neutral in terms of agricultural expenditure. Adjustment needs in ACP countries signatories to the Sugar Protocol were explicitly recognised in the Commission proposal and addressed in a specific aid programme agreed by the Council and the Parliament as part of the reform package.

The sugar reform should be considered against the background of the EU's ‘Everything but Arms Initiative’ (EBA) in 2001, and the 2005 World Trade Organisation (WTO) ruling on the EU sugar regime. The EBA granted least developed countries (LDC) free access to the EU market, including sugar. The WTO ruling necessitated a reduction of subsidized EU sugar exports. In response, the EU had to cut its sugar production quotas to maintain the appropriate market balance. Thus, some of the developments described by the Court (e.g. the reduction of production quotas) are ultimately rather a consequence of the two aforementioned changes in the broader policy environment. Others (e.g. the concentration and closure of production facilities) can at least partially be attributed to longer-term trends.

V.
The overall increase in competitiveness of the EU sugar sector achieved by the reform is evident and the Commission considers that this objective has been fully met.

The reform was based on a voluntary system of quota renunciation underpinned in particular by a temporary restructuring fund. The choice of abandoning or keeping production was to be made by every sugar producing company bearing in mind that in the future they would have to secure their long-term profitability in a situation of substantially lower institutional prices.

REPLY OF THE COMMISSION

The fact that the reform simultaneously offered the option of abandoning and obtaining additional quotas responded precisely to the objective of achieving a smaller but more competitive EU sugar producing sector.

As documented in Commission Table 1, the renunciation of quota has been more pronounced in Member States with a low level of combined profitability, whereas 93 % of new quotas have been allocated to Member States with a high combined profitability. As a result of this process, Member States with high profitability account for 78 % of the EU quota (68 % before the reform) whereas Member States with low profitability now hold 5 % of the quota (12 % before).

VI.

The Commission welcomes the Court's acknowledgment that the reform's objective of stabilising the sugar market and sugar prices has been met.

The higher reliance on external supplies of sugar is the result of the trade and development policies of the EU, and in particular the 'Everything but arms' initiative that has granted unlimited access to the EU market to imports from least developed countries, some of which have substantial sugar export potential.

Moreover, the sugar regime incorporates the necessary tools to deal with a hypothetical situation of undersupply of the EU market mainly by converting available out-of-quota sugar into quota sugar.

The Commission will shortly launch a study on price transmission in the sugar sector to shed more light on this issue.

VII.

In line with the principle of subsidiarity, the responsibility for addressing the consequences of factory closures (or production reductions), including the implementation of the necessary diversification measures, lies with the Member States. Nevertheless, with a view to securing timely implementation of these measures and then avoiding unnecessary delays, the EU legislation contains detailed execution and payment deadlines which Member States are bound to meet.

The reform entails a more competitive business environment for traditional refiners, which need to adjust their operations in order to remain competitive in this new scenario. The purpose of this transitional aid, which was not part of the Commission's initial proposal, is to enable these companies to take the necessary measures to improve their competitiveness.

VIII.

As far as the reform of the sugar regime is concerned, all the changes that were introduced within the Common Market Organisation (CMO) for sugar need to be taken into account, i.e. the transfer from measures encompassing high guarantee prices of sugar beet, production and export refunds to a system mainly based on direct aid to farmers. In this sense, the sugar regime was conceived to be budget-neutral in terms of agricultural expenditure (see also the Court's observation in point 89). The Commission considers that this objective has been achieved.

In accordance with Article 1(3) of Council Regulation (EC) No 320/2006, the remaining balance in the sugar restructuring fund will be assigned to the EAGF after the financing of the measures under that fund.

REPLY OF THE COMMISSION

The accompanying measures for ACP countries result from the overall EU commitment, within the framework of the ACP–EU partnership agreement, to support ACP countries on their path to poverty reduction and sustainable development. During the process leading to the sugar reform, the Commission had committed itself to support the adjustment needs of privileged Sugar Protocol countries and made an analysis of the impact of the sugar reform on ACP countries. The need for such accompanying measures to ACP countries had been duly anticipated and they do not pertain to the agricultural section of the budget.

IX. first indent
As a matter of course, the Commission always exercises great diligence to ensure that instruments and measures are designed so as to ensure overall consistency and are based on thorough technical assessments of needs and objective and non-discriminatory criteria. This approach has also been followed in the reform of the sugar market.

IX. second indent
In preparing its proposal for the rules governing sugar after marketing year 2014/15, the Commission, building on the experience of the past, will examine a whole series of options.

IX. third indent
The Commission is of the view that the new sugar market balance emerging from the reform, including the level of EU self-sufficiency, is in line with Treaty provisions, which do not stipulate that the EU should be self-sufficient with regard to every agricultural product. Furthermore, the sugar regime incorporates the necessary tools to deal with situations of undersupply of the market, mainly by converting available out-of-quota sugar into quota sugar.

IX. fourth indent
In order to shed more light on this issue, the Commission will shortly launch a study on price transmission in the sugar sector.

IX. fifth indent
In line with the subsidiarity principle, the responsibility for implementation of diversification measures and for ensuring compliance with environmental obligations lies with the Member States, which are better placed to take the necessary decisions in the light of the number of specific factors applying in each case.

INTRODUCTION

4.
The smooth operation of a sugar regime based on quotas requires quotas for isoglucose and inulin syrup as well, since, as the Court rightly points out, both products are potential substitutes for sugar. Quotas were introduced at a time when the production of these alternative sweeteners in the Community reached a volume that risked disrupting the normal operation of the sugar regime. The quota levels fixed then corresponded to the production volume of that time.

5.
The Commission would like to clarify that in the light of the World Trade Organisation (WTO) ruling, there is no absolute quantitative limit on white sugar exports:

REPLY OF THE COMMISSION

The WTO Panel and the Appellate Body recommended that the Dispute Settlement Body (DSB) request the European Community (EC) to bring its sugar regime, to the extent it was found to be inconsistent with the WTO *Agreement on Agriculture*, in line with its obligations under that Agreement.

As regards the scope of the inconsistency, in its report of 28 April 2005 the WTO Appellate Body upheld the Panel's findings that:

— footnote 1 in the EC Schedule relating to preferential imports from certain ACP countries and India did not have the legal effect of enlarging or otherwise modifying the European Communities' quantity commitment level contained in the EC Schedule,

— the complainants (Australia, Brazil and Thailand) had provided prima facie evidence that producers/exporters of C (i.e. out-of-quota) sugar that exceed the EC's commitment levels received 'payments' on export (i) through sales of C beet to C sugar producers below their total costs of production; and (ii) in the form of transfers of financial resources, through cross-subsidisation resulting from the operation of the EC sugar regime, within the meaning of Article 9.1(c) of the WTO *Agreement on Agriculture* (and hence subject to reduction commitments for export subsidies),

— the EC had not demonstrated that its exports of C sugar and ACP/India (equivalent) sugar that exceeded the European Communities' commitment level were not subsidised.

Therefore the EU may allow exports of out-of-quota sugar in excess of its WTO commitments, provided the EU can demonstrate that these exports are not subsidised.

Box 1
See reply to point 5.

7.
The Commission would like to underline at the outset that not all EU sugar exports but only subsidised exports should be kept within the limit imposed by the WTO ruling. Accordingly, quota sugar and quota and out-of-quota isoglucose, as far as no refund is granted, are not subject to this limit.

9.
The objectives of the reform are directly linked to the objectives of the CAP, which are enshrined in the Treaties. Moreover, it is not a shortcoming of the reform to have partly diverging objectives, but rather a result of its comprehensive scope. The different objectives of the reform reflect the different aspects of the sugar market and need to be balanced off against each other.

10. (d)
A lower level of quota renunciation during the second year led to a situation of oversupply of the domestic market, in response to which the Commission had to take two sets of measures: on the one hand, extending export refunds into the marketing year 2007/08, and, on the other hand, setting a withdrawal percentage of 13.5 % (Commission Regulation (EC) No 290/2007) in order to preserve the structural balance of the market.

REPLY OF THE COMMISSION

10. (e)
Since the reform involved a reduction of beet prices, it had a direct impact on the income of growers, hence the justification for compensation. For cereal growers the isoglucose only constitutes a marginal outlet for cereals whose price is much more dependent on other variables. The reform did not have a noticeable impact on the income of cereal growers and therefore any compensation would not have been justified.

OBSERVATIONS

21.
In order to secure an efficient and smooth restructuring, the Commission opted for a reform model based on voluntary decisions by sugar producers. This choice has proven efficient in delivering the objectives of the reform. An approach based on targeting specific regions or individual producers would have encountered not only major opposition by Member States and operators affected by quota cuts but also great practical difficulties in singling out who should go out of business and who should remain.

22.
The primary objective of the reform was to attain a new balance for the EU sugar producing sector in a scenario marked by a greater openness of the domestic market to imports from third countries. In order to achieve this objective, a quota reduction was required; remaining companies should be able to operate in a market with substantially lower institutional prices.

23.
For reasons of efficiency and transparency, the Commission opted for a reform model in which the final decisions for keeping, reducing or abandoning production would be taken by individual sugar companies, against the background of a future characterised by substantially lower prices. In addition, a financial incentive was provided for companies that decided to surrender quota. This model does not require an analysis of the current profitability and prospects of every individual sugar producer in the EU. Therefore, the Commission did not consider it necessary to collect such data on productivity and efficiency for the model chosen. Moreover, such an analysis would concern confidential aspects of private business, and comparisons between companies based thereon would not be exempt from controversy.

The gains in competitiveness of the EU sugar industry after the reform are incontestable since operating companies now have to maintain profitability in a scenario of substantially lower institutional prices.

24.
The Commission has consistently made use of the best available information for the purpose of estimating the profitability of the sugar sector in each Member State. In order to secure reliability of results, these analyses are to be based on consolidated underlying trends over a meaningful period of time. The current results of the reform have, to a very large extent, confirmed the validity of these estimates.

REPLY OF THE COMMISSION

The original Impact Assessment SEC(2003) 1022 was based on data from the 'Study to assess the impact of future options for the future reform of the sugar CMO', prepared by LMC for the CEFS (2003), which largely confirmed previous conclusions reached by the Commission.

The update of the Impact Assessment SEC (2005) 808 drew on a range of sources, including various studies commissioned either by sector organisations (e.g. Comité Européen de Fabricants de Sucre, Conféderation Générale de Betteraviers) or Member States, as well as contributions from the academic world.

Accordingly, the data in Table 2 of the updated impact assessment are the latest available suitable for the purpose of estimating the profitability of the entire sugar sector in each Member State.

25.
See the reply to point 23 for the features of the reform model retained by the Commission.

As documented in Commission Table 1, the share of quota held by high-profitability Member States has increased from 68 % to 78 % after the reform while the share of low-profitability Member States has dropped from 12 % to 5 %. The gains in the overall competitiveness of the EU sugar producing sector are clear.

26.
The rationale for the reform was the voluntary renunciation of 6 million tonnes of quota production by the 2009/10 campaign for which a four-year restructuring scheme was set up. While the uptake of the first year (1,47 million tonnes renounced) was in line with this goal, this was not so much the case for the second year (0,71 million tonnes), which prompted the Commission to make the necessary adjustments. The relevant Council Regulation (EC) No 1261/2007 was adopted in October 2007.

The instruments encouraging the abandonment of quota during the first two years of the reform proved to be attractive only to the least competitive processors and the volume of quota abandoned was not sufficient for the sector to find a new balance. As the Court rightly explains in greater detail in point 27, a major obstacle for the industry was not a lack of financial incentives, but rather the uncertainties linked to the part of the aid to be reserved for growers and contractors.

28.
The transitional five-year coupled aid to growers has to be assessed in the political context of the reform of the sugar sector which also had to be supported by those Member States which, as a result, would lose sugar production capacity. The sugar reform is to be assessed against its final results, once the transitional period is over.

REPLY OF THE COMMISSION

29.
The total level of quota renunciation estimated by the Commission is not based on the analysis of the profitability of individual companies but the result of the new macroeconomic conditions prevailing in sugar economics in the EU, namely the WTO panel decision and the increased access granted to certain sugar exporters.

Since the Commission largely shares the Court's position that the profitability of sugar producers can vary within the same region, it opted for a reform model where final decisions would be taken by individual sugar companies. Against this background, the objective of the reform was not to achieve the new market balance solely by a total cessation of production in the least profitable Member States but to set up conditions and incentives allowing the sector to undertake the necessary cuts in production.

30.
The decision to cease sugar production was taken by individual sugar companies. Most efficient sugar producers are certainly better placed to keep their activity in a scenario of lower prices. As the Court rightly points out in other parts of its report, the combined profitability of sugar production depends not only on the economic performance of processing facilities but also on the competitiveness of the growing sector. To be commercially sustainable, both should go hand in hand.

32. (c)
The introduction of an obligatory uncompensated quota cut in 2010 if the target had not been met by voluntary renunciations proved instrumental in securing a large uptake from the third year of the reform.

34.
As the Court describes in point 27, an essential element that precluded a greater uptake of the restructuring fund during the second year was a degree of uncertainty about the actual level of aid to be received by the sugar processor. Moreover, the Commission wishes to stress that the total aid amount was not increased during the second phase of the reform in which, nevertheless, the objective of total quota renunciation has been achieved.

35.
Decisions on quota renunciation were taken voluntarily by companies on the basis of their own assessment of the current situation and perspectives. All operators in the EU were confronted with the same choice under the same conditions and everyone took the decision that they considered to be the most appropriate.

36.
The aim was to achieve an overall increase in the productivity of the EU sugar sector after the reform, and this goal has been reached.

Being a voluntary scheme, all EU sugar producers had access to the restructuring scheme. The final decisions were taken by individual undertakings bearing in mind the likely profitability of the company in the new market environment.

See also the figures presented in the Commission reply to point 25.

REPLY OF THE COMMISSION

37.
The competitiveness of individual companies is not only a function of the Member State where they operate but also their size, the performance of the processing facilities, management and many other factors. As rightly explained by the Court, profitability differentials between companies located in the same Member State can be important.

The total quota allocated before the reform to high-profitability Member States was much higher than in low-profitability Member States. As emerges from Annex III, quota available in low-profitability Member States after the reform amounts to 31 % of the quota they held before the reform. In the case of high-profitability Member States, this percentage is 81 %.

38.
The Commission is of the view that the objectives of the reform have been fully achieved and remains persuaded that individual producers are best placed to take decisions based on their assessment of their future competitiveness.

39.–40.
The Commission considers that the mechanisms do not conflict given that the rationale for offering the option of additional quotas simultaneously with incentives to surrender quota through the restructuring fund was precisely to underpin the goal that the Court mentions, namely to facilitate, by increasing their processing capacity, further gains in competitiveness for those companies that were already competitive.

40. second indent
Whereas sugar processors would benefit from lower beet prices after the reform, the price of maize and other raw materials used for processing isoglucose would be unaffected. In order to ensure that isoglucose processors could maintain their relative competitiveness, additional quotas free of charge were granted so that they could profit from economies of scale.

41.
The result of the combined application of both measures was to facilitate the concentration of sugar production in those undertakings with the best prospects of remaining competitive over the years and, thereby, achieving an overall increase in the competitiveness of the EU sugar producing sector.

42.
The purpose of the reform was to achieve the necessary adjustment of the EU sugar production sector in a smooth and efficient way. This required a restructuring fund for those companies giving up quotas and flexible adjustment tools for those deciding to remain in business. Sugar companies in the EU were called on to take a series of decisions based on their own analysis of prospects and market outlook. In this complex economic environment, some companies decided to buy quota first and to renounce some quota afterwards.

The Commission is of the view that this enhanced flexibility of operators resulted in a more efficient adjustment of the EU sugar sector, while giving equal treatment to all operators.

REPLY OF THE COMMISSION

As the Court rightly points out, the amount charged for quota purchases and granted for quota renunciations was equivalent.

As to the alleged negative financial consequences, please see the Commission reply to point 43.

43.
Whereas sugar processors would benefit from lower beet prices after the reform, the price of maize and other raw materials used for processing isoglucose would remain unaffected. As the drop in sugar prices entails a reduction in the price of isoglucose, the reform would have resulted in a reduction of the profits of isoglucose producers.

In order to make sure that isoglucose processors could maintain their relative competitiveness and thereby to ensure a level playing field between producers of sugar and of isoglucose, an increase of quotas for isoglucose was granted so that they could profit from economies of scale.

The Commission would like to stress that, as is the case for sugar quotas, isoglucose companies giving up quota and applying for the restructuring amount had to submit and prove correct implementation of a restructuring plan.

44.
The reform aimed at a global improvement of the overall competitiveness of the sector including growers, through a lower minimum price for beet. As Annex VI of the Court highlights, certain Member States decided to focus the diversification aids mainly on sugar beet growers.

45.
The results of the reform show that EU beet growers have exhibited greater capacity to adapt than initial estimates indicated and sugar beet growing continues in substantial areas of those Member States referred to in Table 2.

46.–47.
By its nature, sugar production requires heavy industrial facilities. It can only remain competitive if both beet production and beet processing are carried out competitively. The cases reported by the Court notwithstanding, it is also possible that performing industrial facilities were forced to close down due to the limited competitiveness of the beet grown in the surroundings. This appears to be the case described by the Court in point 30.

50.
The Court's observations relate to the legal basis as adopted by the Council, which the Commission is bound to implement.

51.
The reform has contributed to bridging the price gap between the internal EU and the world market. The EU sugar sector is now more market-driven and more competitive than it was before the reform.

54.
The Commission welcomes the Court's acknowledgment that the EU sugar market has been stable since the start of the reform.

REPLY OF THE COMMISSION

55.
The actual level of imports from these countries depends on the relative attractiveness of the EU in comparison with the world market. Therefore, one of the goals achieved by the reform has been to bridge this price gap.

56.
Greater reliance on imports is not the result of the sugar reform but the consequence of EU policies aimed at boosting the role of sugar as a driver for economic activity in least developed countries with a good production potential.

57.
The Commission is of the view that the new market balance achieved by the reform of the sector can be sustained over the foreseeable future. Market developments seem to confirm this.

58.
The fact that the EU has become more dependent on imports is the logical consequence of opening the EU market to third countries. Nevertheless, this level of reliance on imports would have been much larger if present sugar prices in the EU had remained at the high level prevailing before the reform.

All in all, the level of self-supply within quota maintained after the reform (around 85 %) can be considered satisfactory and the Commission would like to stress that the regime incorporates the necessary instruments to deal with hypothetical situations of undersupply of the EU market mainly by converting available out-of-quota sugar into quota sugar.

59. (b)
This greater reliance on imports depends essentially on the gap between world and EU sugar prices. The reform has been instrumental in bridging this gap and has therefore contributed to maintaining a robust albeit smaller sugar-producing sector in the EU.

60.
By substantially raising the overall competitiveness of EU production, the Commission takes the view that after the reform the EU sugar sector is better equipped to resist delocalisation.

61.
As the Court rightly explains, to receive restructuring aid the operator must present a restructuring plan containing detailed, concrete measures whose implementation is enforced by national authorities. Only companies that have satisfactorily implemented these measures are entitled to receive payments.

The fact that EU sugar producer groups are also importing sugar into the EU is not new. Moreover, in a new scenario where the EU is meant to increase its imports of sugar, the fact that certain producing facilities are being transformed into refineries would allow part of the processing of such sugar to remain in the EU.

REPLY OF THE COMMISSION

62.
The Commission welcomes the Court's acknowledgement that the reform's objective of reducing the sugar price has been met.

63.
In order to shed more light on this issue, the Commission will shortly be launching a study on price transmission in the sugar sector.

Furthermore, in the context of its periodic evaluation of policies, the Commission will launch an ex-post evaluation of CAP measures applied to the sugar sector. The evaluation will examine the impact of CAP measures applied to the sugar supply chain, including the farm sector and sugar producers and refiners, since the reform was adopted in 2006. Work on the evaluation is expected to begin in the fourth quarter of 2010. The results can be expected at the end of 2011.

64.
It is not surprising that a reform reducing the overall size of the sector while requiring remaining companies to substantially increase their competitiveness leads to a certain degree of industrial concentration.

69.
Isoglucose is processed from cereals (mainly maize and wheat) and, in contrast to the sugar beet sector, there are no specific, inter-branch delivery contracts between growers and processors. Hence reserving part of the aid for growers would not have been justified.

72.
As acknowledged by the Court in point 13 and in line with the principle of subsidiarity, the implementation of the restructuring aid is the responsibility of the Member States, which are best placed to grasp the particular circumstances of individual situations.

Furthermore, the Commission would like to stress that the payment of the restructuring aid is conditional upon the implementation of a plan presented by the operator to the Member State concerned including a detailed description of concrete actions. Needless to say, these plans have to comply with EU and national rules, some of which may vary substantially across Member States.

73.
Member State authorities must check that social obligations are implemented in compliance with social plans. Audits by clearance of accounts include verification that Member States carry out such checks.

Social plans for the most part are drawn up in agreement between the producer and workers/unions. Fulfilment of obligations — training, redeployment, compensation, etc. — will also be monitored by the parties involved.

REPLY OF THE COMMISSION

Furthermore, the Commission hosts the 'Sectoral Social Dialogue Committee for the Sugar Industry' which comprises representatives from trade unions and sugar industries. In particular, this Committee has agreed a Code of Conduct of the European Sugar Industry on corporate social responsibility, which has been extensively applied in the context of the reform.

Moreover, the social impact of the reform will be considered in the evaluation of CAP measures applied to the sugar sector. Work on the evaluation is expected to begin in the fourth quarter of 2010. The results can be expected at the end of 2011.

74.
The rationale for extending the deadline producers had to comply with their environmental obligations was two-fold: on the one hand, the initial deadline was fixed in 2006 and the timetable needed updating to take into account the important changes in national restructuring programmes that started in 2008. On the other hand, the consequences of the global financial crisis for the economies of certain Member States made this amendment appropriate.

75.
Isoglucose is processed from cereals (mainly maize and wheat) and, in contrast to the sugar beet sector, there are no specific, inter-branch delivery contracts between growers and processors. Hence reserving part of the aid for cereals growers would not have been justified since cereal prices were not affected by this reform.

76.–77.
See also Commission reply to point 73.

The Commission would also like to stress that the reduction in the number of sugar factories has been an ongoing process for many years, since well before the sugar reform, as each production unit was increasing its processing capacity. For instance, between 2000 and 2006, 67 factories closed down in the EU.

The restructuring fund has provided a legal framework and financial support that closures which occurred before the reform could not benefit from.

80.
Diversification aid was introduced to give Member States the option of taking measures in the regions concerned and allows them to include measures for other economic actors affected by sugar restructuring that have not been compensated by restructuring aid.

81.
See Commission reply to point 74.

REPLY OF THE COMMISSION

82.
In line with the DG AGRI multi-annual evaluation plan 2010–12, the evaluation of CAP measures applied to the sugar sector will be carried out in 2010–11. The evaluation will examine the impact of CAP measures applied to the sugar supply chain, including the farm sector and sugar producers and refiners, since the reform was adopted in 2006. The impact of diversification aid on regions affected by restructuring should also be examined in this evaluation (on the basis of case studies).

Work on the evaluation is expected to begin in the fourth quarter of 2010. The results can be expected at the end of 2011.

The Commission carries out its checks as part of the Clearance of Accounts procedures.

85.
Although the Commission proposal did not include transitional aid to full-time refiners, it became clear during Council discussions that, like sugar beet processors, full-time refiners had to undergo a series of structural adjustments as a consequence of the drop in institutional sugar prices.

Indeed, the reform entails a more competitive business environment for traditional refiners, which need to adjust their operations in order to remain competitive in this new scenario. Concerned operators had to set out the necessary changes in a business plan to be submitted to national authorities. By granting this aid, the reform secured equal treatment of all sugar producers in the Community whether they use beet or raw sugar as a raw material.

86.
EU legislation is to be applied uniformly in Member States whether they have one or more potential beneficiaries.

88.
These variations are due to the actual quota that was renounced and the timing of renunciation. In reality more temporary restructuring amounts were collected and less expenditure was incurred under the sugar restructuring fund. The highest rates of aid per tonne of quota were available during the first two years of the reform.

90.
The reform of the sugar regime was designed to be budget-neutral in terms of agricultural expenditure, rather than self-financing. The sugar restructuring fund was designed to be self-financing.

REPLY OF THE COMMISSION

As far as the reform of the sugar regime is concerned, all the changes that were introduced within the Common Market Organisation (CMO) for sugar need to be taken into account, i.e. the transfer from measures encompassing high guarantee prices for sugar beet and production and export refunds to a system mainly based on direct aid to farmers. In this sense, the sugar regime was conceived to be budget-neutral in terms of agricultural expenditure (see also the Court's observation in point 89). The Commission considers that this objective has been achieved.

The sugar restructuring fund, which is not a component of the CMO, was designed to be self-financing, and this has also been achieved.

90. (a)
At the moment of the reform, sugar imports into the EU were expected to increase, primarily as a result of the 'Everything But Arms' measures. Thus, in the absence of a reform and taking into account the WTO ruling, the evolution in the EU sugar market would have resulted in a decrease in EU production. Hence, surplus production would decrease and thus also the revenue from the production levies was anticipated to diminish gradually to zero as from budget year 2010. In this dynamic context, the production charge, introduced by the sugar reform, was set at 12 €/tonne in order to preserve budget neutrality as far as revenue was concerned.

90. (b)
The accompanying measures result from the overall EU commitment, within the framework of the ACP–EU partnership agreement, to support ACP countries on their path to poverty reduction and sustainable development. During the process leading to the sugar reform, the Commission had committed to supporting the adjustment needs of privileged Sugar Protocol countries and made an analysis of the impact of the sugar reform on ACP countries. The need for such accompanying measures to ACP countries had been duly anticipated.

The support provided to the ACP countries falls outside the scope of Council Regulation (EC) No 1290/2005, as it concerns development aid to the ACP countries and therefore is not covered by the expenditure of the common agricultural policy.

91.
See Commission reply to point 90.

CONCLUSIONS AND RECOMMENDATIONS

93.
The objectives of the reform are directly linked to the objectives of the CAP, which are enshrined in the Treaties. Moreover, it is not a shortcoming of the reform to have partly diverging objectives, but rather a result of its comprehensive scope. The different objectives of the reform reflect the different aspects of the sugar market and need to be balanced against each other.

REPLY OF THE COMMISSION

94.
Companies operating after the reform have to maintain profitability in a scenario of lower institutional prices and hence the objective of improving the overall competitiveness of the sector has been fulfilled. This gain in productivity is confirmed by the fact that Member States with high profitability account now for 78 % of the quota (compared with 68 % before the reform) while Member States with low profitability now account for only 5 % (compared with 12 % before the reform).

The additional quota made available (in exchange for an amount equivalent to the restructuring aid) sought to further reinforce the competitiveness of the EU sugar sector by giving the companies the opportunity to expand their production and benefit from economies of scale, or at least maintain a production level similar to that prevailing before the reform in the event of a final quota cut.

See also Commission reply to point 23.

95.
After the reform the sugar market found a new balance resulting from reduced domestic production and lower institutional prices. The decision to cease production was taken voluntarily by the factories concerned after assessing the long-term viability of their operations in the new scenario. All operators in the EU were confronted with this option under identical conditions.

The Commission stresses that the size of the necessary quota cut was assessed against the need to provide a market balance in the light of the new economic environment of the sector. It was achieved by means of those companies that considered themselves to be uncompetitive in the new prevailing conditions ceasing (or reducing) production.

96.
The rationale behind simultaneously offering the option of renouncing quotas and obtaining additional quotas responded to the need to manage a comprehensive restructuring of the sugar production sector in the EU. As a result, the sector is now smaller but considerably more competitive.

Whereas sugar processors would benefit from lower beet prices after the reform, the price of maize and other raw materials used for processing isoglucose would remain unaffected in spite of the drop in isoglucose prices. In order to make sure that isoglucose processors could maintain their relative competitiveness, additional quotas free of charge were granted so that they could profit from economies of scale.

97.
Overall, EU growers are more competitive after the reform. That being said, growers' competitiveness cannot be seen in isolation from that of the factory to which they deliver their crops. See also Commission replies to points 46–47.

REPLY OF THE COMMISSION

98.
The Council decided to maintain a regime based on production quotas until 2014/15.

99.
The Commission considers that both objectives, stabilising the market and reducing unprofitable production capacity, have been fully met. Following the reform, the EU produces 6 million tonnes less of quota sugar and operating companies have to find their profitability in a scenario of substantially lower institutional prices.

The reform has bridged the gap between EU and world prices. This has contributed to easing the pressure on the EU's domestic sugar sector.

Recommendation 1
As a matter of course, the Commission always exercises great diligence to ensure that instruments and measures are designed so as to ensure overall consistency and are based on thorough technical assessments of needs and objective and non-discriminatory criteria. This approach has also been followed in the reform of the sugar market.

Recommendation 2
In the preparation of its proposal for the rules governing sugar after the marketing years 2014/15, the Commission, building on the experience of the past, will examine a whole series of options.

100.
The reform has contributed to making the EU sugar sector more competitive and should ensure continuing production in the EU.

101.
Greater reliance on imports is not the result of the sugar reform but the consequence of EU policies aimed at boosting the role of sugar as a driver for economic activity in least developed countries with good production potential.

Recommendation 3
The Commission takes the view that the new sugar market balance emerging from the reform, including the level of EU self-sufficiency, is in line with Treaty provisions. The Treaty does not stipulate that the EU should necessarily be self-sufficient with regard to every agricultural product. Certain instruments built into the sugar regime would enable the EU to deal with situations of undersupply of the market, mainly by converting available out-of-quota sugar into quota sugar.

102.
The Commission considers that the reform's objective of reducing the sugar price has been met.

The Commission will shortly be launching a study on price transmission in the sugar sector in order to shed more light on the issue.

Furthermore, as part of its periodic evaluation of policies, the Commission will launch an ex-post evaluation of CAP measures applied to the sugar sector. The evaluation will examine the impact of CAP measures applied to the sugar supply chain, including the farm sector and sugar producers and refiners, since the reform was adopted in 2006. Work on the evaluation is expected to begin in the fourth quarter of 2010. The results can be expected at the end of 2011.

REPLY OF THE COMMISSION

Recommendation 4
In order to shed more light on this issue, the Commission will shortly launch a study on price transmission in the sugar sector.

103.
The Commission would also like to stress that the reduction in number of sugar factories has been an ongoing process for many years, since well before the sugar reform, as each production unit was increasing its processing capacity. For instance, between 2000 and 2006, 67 factories closed down in the EU.

The restructuring fund has provided a legal framework and financial support that closures which occurred before the reform could not benefit from.

104.
In line with the subsidiarity principle, the legislator has given responsibility for the implementation and follow-up of the social consequences to the Member States, which are better placed to perform this task.

Member State authorities must check that social obligations are implemented in compliance with social plans. Clearance of accounts audits include verification that Member States carry out such checks.

Social plans for the most part are drawn up in agreement between the producer and workers/unions. Fulfilment of obligations — training, redeployment, compensation, etc. — will also be monitored by the parties involved.

Furthermore, the Commission hosts the 'Sectoral Social Dialogue Committee for the Sugar Industry' which comprises representatives from trade unions and sugar industries. In particular, this Committee has agreed a Code of Conduct of the European Sugar Industry on corporate social responsibility which has been extensively applied in the context of the reform.

105.
In line with the principle of subsidiarity, responsibility for the implementation of the diversification measures lies with the Member States.

106.
In December 2009, the Commission amended the legislation to allow for an extension of the deadlines concerning environmental measures until September 2011. The rationale for extending this deadline was two-fold: on the one hand, the initial deadline was fixed in 2006 and the timetable needed updating to take into account the important changes in national restructuring programmes that started in 2008. On the other hand, the consequences of the global financial crisis for the economies of certain Member States made this amendment appropriate.

107.
Although the Commission proposal did not include transitional aid to full-time refiners, it became clear during Council discussions that, like sugar beet processors, full-time refiners had to undergo a series of structural adjustments as a consequence of the drop in sugar institutional prices.

REPLY OF THE COMMISSION

Indeed, the reform entails a more competitive business environment for traditional refiners, which need to adjust their operations in order to remain competitive in this new scenario. Concerned operators had to set out the necessary changes in a business plan to be submitted to national authorities. By granting this aid, the reform secured equal treatment of all sugar producers in the Community whether they use beet or raw sugar as a raw material.

108.
The Commission would also like to stress that the reduction in the number of sugar factories has been an ongoing process for many years, since well before the sugar reform, as each production unit was increasing its processing capacity. The restructuring fund has provided a legal framework and financial support that closures which occurred before the reform could not benefit from.

Recommendation 5
In line with the subsidiarity principle, responsibility for the implementation of the diversification measures lies with the Member States, which are better placed to take the necessary decisions in the light of the number of specific factors applying in each case.

Recommendation 6
In line with the subsidiarity principle, responsibility for ensuring compliance with environmental obligations lies with the Member States, which are better placed to take the necessary decisions in the light of the number of specific factors applying in each case.

109.
As far as the reform of the sugar regime is concerned, all the changes that were introduced within the Common Market Organisation (CMO) for sugar need to be taken into account, i.e. the transfer from measures encompassing high guarantee prices of sugar beet and production and export refunds to a system mainly based on direct aid to farmers. In this sense, the sugar regime was conceived to be budget-neutral in terms of agricultural expenditure. The Commission considers that this objective has been achieved.

In accordance with Article 1(3) of Council Regulation (EC) No 320/2006, the remaining balance in the sugar restructuring fund, currently estimated at 640 million euro, will be assigned to the EAGF after the financing of the measures under that fund.

As far as the revenue is concerned, please see Commission reply to point 90 (a).

The accompanying measures result from the overall EU commitment, within the framework of the ACP–EU partnership agreement, to support ACP countries on their path to poverty reduction and sustainable development. During the process leading to the sugar reform the Commission had committed to supporting the adjustment needs of privileged Sugar Protocol countries and made an analysis of the impact of the sugar reform on ACP countries. The support provided to ACP countries falls outside the scope of Council Regulation (EC) No 1290/2005, as it concerns development aid to the ACP countries and therefore is not covered by the expenditure of the common agricultural policy.

Agri C5 - 8.7.4

Sugar restructuring
Breakdown of Member States by their combined profitability

Level of combined profitability	MS	Quota 2006/2007	Total renounced (tonnes)	in % of initial Quota	Added/ Bought	Quota 2009/2010	in % of initial Quota
LOW	Greece	**317 502**	**158 800**	50 %	0	158 702	50 %
	Ireland	**199 260**	**199 260**	100 %	0	0	0 %
	Italy	**1 557 443**	**1 049 064**	67 %	0	508 379	33 %
	Portugal	**69 718**	**69 718**	100 %	0	0	0 %
Total Group in % of TOTAL		**2 143 923** **12 %**	**1 476 842** **28 %**	**69 %**	**0** 0 %	**667 081** **5 %**	**31 %**
MEDIUM	Czech Republic	**454 862**	**102 473**	23 %	20 070	372 459	82 %
	Denmark	**420 746**	**80 083**	19 %	31 720	372 383	89 %
	Spain	**996 961**	**498 481**	50 %		498 480	50 %
	Latvia	**66 505**	**66 505**	100 %		0	0 %
	Lithuania	**103 010**	**20 758**	20 %	8 000	90 252	88 %
	Hungary	**401 684**	**301 264**	75 %	5 000	105 420	26 %
	Slovenia	**52 973**	**52 973**	100 %		0	0 %
	Slovakia	**207 432**	**103 717**	50 %	8 605	112 320	54 %
	Finland	**146 087**	**65 088**	45 %		80 999	55 %
Total Group in % of TOTAL		**2 850 260** **16 %**	**1 291 342** 25 %	**45 %**	**73 395** 7 %	**1 632 313** **12 %**	**57 %**
HIGH	Belgium	**819 812**	**206 066**	25 %	62 489	676 235	82 %
	Germany	**3 416 896**	**757 200**	22 %	238 560	2 898 256	85 %
	France	**3 288 747**	**683 655**	21 %	351 695	2 956 787	90 %
	Netherlands	**864 560**	**126 547**	15 %	66 875	804 888	93 %
	Austria	**387 326**	**54 785**	14 %	18 486	351 027	91 %
	Poland	**1 671 926,0**	**366 868,9**	22 %	100 551,0	1 405 608,1	84 %
	Sweden	**368 262**	**92 798**	25 %	17 722	293 186	80 %
	United Kingdom	**1 138 627**	**165 000**	14 %	82 847	1 056 474	93 %
Total Group in % of TOTAL		**11 956 156** **68 %**	**2 452 920** **47 %**	**21 %**	**939 225** 93 %	**10 442 461** **78 %**	**87 %**
Others[1]		**604 114**	**9 227**	2 %	0	594 886	
TOTAL		**17 554 453**	**5 230 331**		1 012 619	13 336 741	

[1] Azores, Madeira, French overseas departements, RO, BU.

European Court of Auditors

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THE EU LAUNCHED A MAJOR REFORM OF ITS SUGAR SECTOR IN 2006, TO ENSURE ITS COMPETITIVENESS AND TO STABILISE THE MARKET WHILE COMPLYING WITH INTERNATIONAL COMMITMENTS. THIS INVOLVED A PRICE DECREASE AS WELL AS A 30 % REDUCTION IN PRODUCTION QUOTAS, RESULTING IN THE CLOSURE OF 80 FACTORIES. A RESTRUCTURING FUND AND AID FOR DIVERSIFICATION WERE TO MITIGATE THE SOCIAL AND ECONOMIC IMPACT OF THESE MEASURES, THE COURT CONDUCTED AN AUDIT OF THE REFORM AND CONCLUDED THAT SOME OF THE MOST EFFICIENT PRODUCERS WERE FORCED TO RENOUNCE QUOTAS AND RIGIDITIES LINKED TO THE QUOTA SYSTEM ARE STILL PRESENT. THERE IS AN INCREASED DEPENDENCE ON IMPORTS WHILE THERE ARE DOUBTS AS TO THE DECREASE IN PRICES BEING PASSED ON TO THE FINAL CONSUMERS AND DELAYS PERSIST IN IMPLEMENTING DIVERSIFICATION AND ENVIRONMENTAL MEASURES.

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