

Folketingets Udvalg for
Fødevarer, Landbrug og fiskeri
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København, den
Sagsnr.: 4848

- ./. Hermed fremsendes Notat til Fødevareudvalget om Kommissionens rapport om tilbagebetalingskrav på eksportrestitutioner for levende dyr af 3. oktober 2005 samt
- ./. Kommissionens rapport om tilbagebetalingskrav på eksportrestitutioner for levende dyr.

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Direktoratet for FødevarerErhverv

Sagsnr.: 4848

Den 3. oktober 2005

Notat til Fødevareudvalget om Kommissionens rapport om tilbagebetalingskrav på eksportrestitutioner for levende dyr

Baggrund

Ved samråd i Fødevareudvalget den 11. maj 2005 om eksportstøtte til levende kvæg blev det aftalt, at Kommissionens forventede rapport om eksportstøtte til levende dyr skulle oversendes efter modtagelse, hvorefter Fødevareudvalget skulle inviteres til en drøftelse heraf. Ved SEC(2005) 1035 af 26. juli 2005 har Kommissionen fremsendt rapport om tilbagebetalingskrav på eksportrestitutioner for levende dyr. Rapporten omhandler udelukkende levende kvæg. Rapporten er modtaget i Fødevareministeriet den 19. september 2005.

I Rådets forordning (EF) nr. 1254/1999 om den fælles markedsordning for oksekød art 33 stk. 9, er det fastsat, at ydelse af restitutioner for eksport af levende dyr er betinget af, at dyrevelfærdsbestemmelserne i fællesskabsforskrifterne, navnlig om beskyttelse af dyr under transport, overholdes. Der kan for øjeblikket ydes restitutioner til eksport af levende dyr til slagtning til Ægypten og Libanon.

Spørgsmålet om restitutioner til levende dyr har været genstand for en del debat. I foråret offentliggjorde en række organisationer en video og en rapport om behandlingen af dyr eksporteret til 3. lande med eksportstøtte. Efterfølgende sendte landbrugskommissær Marian Fischer Boel brev af 8. april 2005 til medlemslandenes kompetente ministre, hvor det oplyses, at der vil blive taget initiativ til en opstramning af kravene i forordning (EF) nr. 639/2003.

Spørgsmålet om anvendelse af eksportstøtte til levende kvæg blev endvidere drøftet under eventuelt på rådsmødet (landbrug og fiskeri) den 26. april 2005 efter dansk anmodning. Her afviste kommissæren det danske ønske om at afskaffe restitutioner til levende dyr til slagtning. Kommissæren udtalte, at man ønsker at afvente resultatet af de igangværende WTO-forhandlinger, og at en afskaffelse af støtten i EU vil betyde, at Libanon i stedet vil importere fra fjernere liggende lande med en helt anden dyrevelfærdsmæssig standard. Kommissæren henviste til Brasilien, der i 2003 eksporterede 10.000 dyr til Libanon.

Reglerne om kontrol

I Kommissionens forordning (EF) nr. 639/2003 er der fastsat en overvågningsordning, som omfatter kontrol ved udførsel fra EU og kontrol ved aflæsningen i det endelige bestemmelsestredjeland. Kontrollen skal foretages af en dyrlæge ved et godkendt grænsekontrolsted.

Når dyrene har forladt EU's toldområde skal eksportøren sikre, at dyrene kontrolleres af en dyrlæge, hvor de skifter transportmiddel, medmindre udskiftningen af transportmiddel ikke er planlagt og skyldes usædvanlige og uforudsete forhold. På stedet for den første aflæsning i det endelige bestemmelsestredjeland skal en dyrlæge foretage kontrol af dyrene i henhold til de veterinære regler. Kontrollen skal foretages af et kontrol- og overvågningsfirma, der er godkendt til formålet eller af en officiel tjeneste i modtagerlandet.

Eksportrestitutioner udbetales pr. dyr. Der udbetales ikke restitution for dyr, der er døde under transporten, som har født eller aborteret under transporten, eller hvor det skønnes, at dyrevelfærdsbestemmelserne ikke er overholdt. Hvis flere dyr er berørt nedsættes restitutionerne yderligere eller bortfalder helt.

Kommissionens forslag til skærpelse af kontrolreglerne

Kommissionen har udarbejdet et forslag, der skærper bestemmelserne i Kommissionens forordning (EF) nr. 639/03. Forslaget er udsendt i foråret 2005 og behandles i Forvaltningskomiteen for Handelsmekanismer. Forslaget er sat til afstemning på næste møde i forvaltningskomiteen den 11. oktober 2005. Notat og grundnotat af 30. juni 2005 er oversendt til Folketingets Europaudvalg og Folketingets Udvalg for Fødevarer, Landbrug og Fiskeri.

Forslaget indebærer som omtalt i Grundnotat til Folketingets Europaudvalg af 30. juni 2005, at det fremover skal være et krav, at en dyrlæge skal kontrollere, at lovgivningen om dyrevelfærd er overholdt, når dyrene har forladt EU's toldområde.

Kontrollen skal som hidtil finde sted dels de steder, hvor der skiftes transportmiddel, undtagen hvor en sådan ændring ikke var planlagt og skyldes usædvanlige og uforudsete forhold, dels på stedet for første aflæsning i det endelige bestemmelsestredjeland. Som udgangspunkt skal kontrollen udføres af en dyrlæge med eksamensbevis, attest eller andet bevis for formel kompetence i virksomhed som dyrlæge, jf. artikel 2 i direktiv 78/1026/EØF. Dog kan medlemsstater vedtage regler, hvorefter dyrlæger fra tredjelande kan blive godkendt til at udføre føromtalt kontrol, forudsat de besidder den nødvendige viden i relation til Rådets direktiv 91/628/EØF.

Den seneste revision af forslaget indeholder specifikke krav til den dyrlægeattest, der skal afgives i tredjeland i forbindelse med afslutning af eksporten – dvs. ved dyrenes ankomst til tredjelandet. Medlemsstaterne skal påse og verificere, at de pågældende kontrol- og overvågningsfirmaer rent faktisk kontrollerer de pågældende dyrlægers kompetencer i relation til direktiv 91/628/EØF. Ydermere skal kontrollen fra disse firmaer foretages på en måde, der sikrer en rimelig, en objektiv og en upartisk vurdering af dette forhold, og at de nødvendige procedurer hertil forefindes.

Tillige er rapporteringskravene om anvendelsen af forordningen foreslået skærpet i det reviderede forslag, herunder at der kræves mere præcise oplysninger om de sanktioner, som medlemsstaterne anvender ved manglende overholdelse af forordningen.

Kommissionens rapport

Kommissionens rapport indeholder data fra perioden 16. oktober 2003 til 15. oktober 2004. Data fra de nye EU-medlemslande er medtaget fra deres indtræden den 1. maj 2004.

Antallet af levende dyr der udføres med eksportrestitutioner er faldet fra 245.763 i 2002 til 229.278 i 2003, hvilket formentlig skyldes, at det i 2003 blev vedtaget, at der alene skulle gives eksportrestitutioner til eksport af levende dyr, som skal slagtes i 3. lande af kulturelle/ religiøse årsager (Egypten, Libanon). Fra 2003 er der sket en svag stigning fra 229.278 til 236.427 i 2004 (EU-25). Specielt er der sket en stigning i eksporten fra Tyskland, Danmark, Spanien, Frankrig, Holland og Østrig, mens Irland har oplevet en tilbagegang. Eksporten af levende dyr fra Danmark med eksportrestitutioner er steget fra 1.416 dyr til 2003 til 1.638 dyr i 2004. Der er alene tale om avlsdyr.

I rapporten har Kommissionen endvidere udarbejdet statistiske oversigter over restitutionsansøgninger, der er afvist, eller hvor restitutionen er krævet tilbagebetalt på grund af overtrædelse af dyrevelfærdsreglerne. Generelt er mængden af afvisninger eller tilbagebetalingskrav faldet fra € 1.670.139 i 2003 til € 873.130 i 2004. Andelen i relation til den samlede udbetalte eksportstøtte er

faldet fra 2,9 % i 2003 til 2,1 % i 2004. Dette kan ses som en indikation af, at stramningen af reglerne i 2003 har virket efter hensigten.

Det fremgår, at sagerne med afvisninger hovedsagelig vedrører Tyskland, Holland og Østrig. Tyskland er involveret i omkring 56 % af de sager, hvor restitutioner er afvist eller krævet tilbagebetalt. Dette skal ses i lyset af Tysklands generelt store eksport af levende dyr med eksportrestitution.

For så vidt angår begrundelserne for afvisning af restitutionsudbetalinger er der ikke nogen præcis statistik, idet der alene for Østrig og Holland er opgivet årsag og antal dyr. For Hollands vedkommende har 7 dyr født under transporten, 9 dyr er blevet nødslagtes på grund af manglende overholdelse af dyrevelfærdsregler, og for 174 dyrs vedkommende er den maksimale transporttid overtrådt. Også for andre lande er der grove tilfælde af overtrædelse af dyrevelfærdsreglerne.

I Danmark har der i den angivne periode fra 16. oktober 2003 til 15. oktober 2004 ikke været nogen sager, hvor restitution er afvist eller krævet tilbagebetalt. Danmark eksporterer alene avlsdyr. Disse dyr, der skal være forsynet med stamtavle, er så værdifulde, at der ikke er grund til at formode, at de forsætligt behandles uforsvarligt under transport.

Afslutning

Rapporten viser klart, at der fortsat er problemer med overholdelse af reglerne om dyrevelfærd under transport af levende dyr.

Fra dansk side ønsker man, at lange transporter af levende dyr begrænses mest muligt, hvorfor restitutionerne for levende dyr til slagting bør afskaffes. EU skal ikke ved eksportstøtten give et incitament til lange transporter af levende dyr.

Regeringen agter at fortsætte arbejdet med henblik på afskaffelse af eksportrestitutioner til levende dyr. Det forekommer imidlertid ikke realistisk, at Kommissionen vil fremsætte forslag om fjernelse af eksportrestitutioner til levende dyr før en ny WTO-aftale, bl.a. om udfasning af eksportrestitutioner, er opnået. Herefter vil regeringen arbejde for, at eksportstøtten til levende dyr afskaffes som noget af det første. Kommissionen forventes at fortsætte arbejdet med at vedtage regler, der skærper kontrollen med overholdelsen af reglerne om dyrevelfærd under transport.



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 16 September 2005 (16.09)
(OR. fr)**

12354/05

LIMITE

**AGRIORG 44
AGRILEG 121
AGRIFIN 62**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Ms Patricia BUGNOT, Director

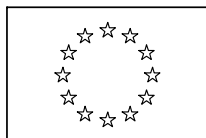
date of receipt: 26 July 2005

to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Commission Staff Working Document: Report on the recovery of export
refunds for live animals in 2004

Delegations will find attached Commission document SEC(2005) 1035.

Encl.: SEC(2005) 1035



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.7.2005
SEC(2005) 1035

COMMISSION STAFF WORKING DOCUMENT

**REPORT ON THE RECOVERY OF EXPORT REFUNDS FOR LIVE ANIMALS
IN 2004**

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1. INTRODUCTION

In their joint declaration of 22 November 2001 on the recovery of export refunds for beef and veal, the Parliament and the Council requested the Commission to submit an annual report to the budgetary authority by 31 May. This report highlighted on the implementation of and compliance with Community legislation, on the recovery of refunds in the event of a failure to comply with Commission Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport¹. Parliament and the Council issued another joint declaration along the same lines on 25 November 2002.

The Commission responded to this request by sending to the budgetary authority, in December 2002, an interim report covering part of 2002 and the preceding years (1 September 1998 to 30 June 2002). The succeeding report covering 2002² incorporated information on the application of Regulation (EC) No 615/98 during 2002 as a whole, on the refusal and recovery of refunds, and the statistical data of the first report were supplemented.

The Commission strengthened existing legislation by adoption of Commission Regulation (EC) No 639/2003 of 9 April 2003 laying down detailed rules pursuant to Council Regulation (EC) No 1254/1999 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport³. This instrument replaces Regulation (EC) No 615/98 and applies to export declarations accepted from 1 October 2003.

The annual reports are based on the number of export declarations of live bovine animals for which the refunds have been paid [Article 8(a)] during the previous calendar year. It may take 6 months or more to complete the process from lodging the export declaration, transporting the animals to the third country, collecting the returned relevant customs and veterinary documents and deciding on the definitive payment of the refunds. Moreover, another aspect of the time gap is that information on refusal or recovery of refunds may be based on export transports having taken place in 2003.

It has to be taken in consideration that data concerning export refunds reflect the EAGGF financial year from 16 October 2003 to 15 October 2004. Furthermore, data from new Member States reflect the period from the date of their accession to the European Union (1 May 2004) onwards.

Member States structured their reports based on the requirements of Regulation (EC) No 639/2003 (Article 8); the same structure will be followed in this consolidated report.

¹ OJ L 82, 19.3.1998, p. 19.

² SEC(2003) 691, 6.6.2003.

³ OJ L 93, 10.4.2002, p. 10.

2. COMMISSION REGULATION (EC) NO 639/2003 OF 9 APRIL 2003 LAYING DOWN DETAILED RULES PURSUANT TO COUNCIL REGULATION (EC) NO 1254/1999 AS REGARDS REQUIREMENTS FOR THE GRANTING OF EXPORT REFUNDS RELATED TO THE WELFARE OF LIVE BOVINE ANIMALS DURING TRANSPORT

Article 33(9) of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁴ subjects the payment of refunds for exports of live animals to compliance with Community legislation concerning animal welfare and, in particular, the protection of animals during transport. Regulation (EC) No 615/98 has laid down specific detailed rules of application for the export refund arrangements in this sector in order to ensure compliance with legislation concerning animal welfare in the framework of export refunds arrangements. Regulation (EC) No 639/2003, replacing Regulation (EC) No 615/98 strengthened the specific detailed rules. Refunds are paid providing the provisions have been met of Regulation (EC) No 639/2003 and those of Council Directive 91/628/EEC of 19 November 1991 on the protection of animals⁵. The Regulation establishes a system of checks and provides for financial consequences for exporters who fail to comply with the provisions on the transport of animals. The checks and the financial consequences relate to the payment of the refund. They apply without prejudice to the checks provided for by Directive 91/628/EEC.

Checks are carried out at three points:

At the point of exit from the Community (Article 2): before the animals leave Community territory, the official veterinarian must check whether the conditions set in Directive 91/628/EEC have been fulfilled from the point of departure to the point of exit and whether the means of transport and the animals are fit for continuing the journey. The veterinarian must also check that provisions have been made for the care of the animals during the succeeding journey in accordance with the Directive.

On the spot where the means of transport are changed (Article 3): where the means of transport are changed in a third country the exporter must ensure that checks are carried out on the change.

In the third country of final destination (Article 3): the purpose of these checks is to determine, on the basis of the general condition of the animals unloaded at the place of the first unloading in the third country of final destination, whether they have been transported in accordance with Directive 91/628/EEC.

The competent official veterinarian is responsible for checks at the exit point and enters his or her comments on the document that proves the animals have left the Community customs territory, which may be either the T5 control document or the appropriate national document. Checks in third countries are carried out by veterinarians either employed by international control and supervisory agencies approved for this purpose by a Member State either by veterinarians charged for the function by an official agency of a Member State. The veterinarians must draw up an inspection report. The T5 control document, or the national document, and the inspection reports are sent to the paying agencies who take them into account when deciding whether to pay refunds, reject applications or, where appropriate, apply penalties.

The financial consequences for exporters who fail to comply with the provisions on the transport of animals are as follows:

⁴ OJ L 160, 26.6.1999, p. 21.

⁵ OJ L 340, 11.12.1991, p. 17.

Non-payment of the refund [Article 5(1)]

The refund is not paid for animals that die during transport, that have given birth or aborted before their first unloading in the third country, or for which the competent authority considers that Directive 91/628/EEC was not complied with. To that end, the competent authority must take account of the documents concerning checks or of any other element concerning compliance with the provisions of the Regulation and the Directive. Death during transport by proved *force majeure* after leaving the customs territory may give right to partial payment of the total of the export refund.

Reduction of the refund [Article 6(1)]

Where the number of animals for which no refund is paid amounts to more than 1% of the total number indicated in the accepted export declaration, provided it is at least two animals, or where it is more than five animals, the refund for those animals is further reduced by an amount equal to the amount of refund not paid. Animals for which the exporter proves that death, birthing or abortion was not the result of non-compliance with the provisions on the protection of animals are not taken into account.

Refusing refunds [Article 6(2)]

If no refund is paid for individual animals and their number is more than 5% of the number endorsed in the export declaration with a minimum of 3 animals, or 10 animals, but at least 2%, no refund will be paid for the whole lot declared in the export declaration. Again, animals for which the exporter proves that death, birthing or abortion was not the result of non-compliance with the provisions on the protection of animals are not taken into account.

The general refunds penalty system pursuant to Article 51 of Regulation (EC) No 800/1999 does not apply in the system of non-payment, reduction or refusal.

Recovery of refunds (Article 7)

If it is established after payment of the refund that the provisions on the protection of animals during transport have not been complied with, the refund or the relevant part of the refund shall be recovered including where appropriate the penalty.

These financial consequences for the exporter fall within the area of responsibility of the competent authorities of the Member State where the export declaration was accepted. Where Member States do not correctly apply the provisions on the payment of refunds, financial corrections may be adopted under the clearance of accounts procedure.

3. APPLICATION OF REGULATIONS (EC) NO 615/98 AND (EC) NO 639/2003 IN 2004

3.1. Amounts of export refunds paid

The payment of the refund for exports of live animals pursuant to Article 33 of Regulation (EC) No 1254/1999 paid in the years 2002, 2003 and 2004 is shown in the following table:

AMOUNTS OF EXPORT REFUNDS ON LIVE BOVINE ANIMALS PAID IN 2004*, 2003* AND 2002*

	2004 (EUR)	2003 (EUR)	2002 (EUR)
DK	237 768	377 956	539 768
DE	28 886 136	27 247 746	18 248 364
ES	917 008	988 541	6 353 867
FR	13 039 370	17 459 011	21 455 871
IE	2 031 764	8 187 379	4 681 772
IT	14 632	168 952	532 343
LU	5 066		
NL	3 899 434	2 509 281	1 796 709
AT	2 579 477	1 766 008	1 998 597
SE	223 018	188 157	123 123
Subtotal	51 833 673	58 893 031	55 730 414
HU**	60 172		
SI**	17 725		
Total	51 911 570		

* EAGGF financial year 2002 (16 October 2001 – 15 October 2002)

* EAGGF financial year 2003 (16 October 2002 – 15 October 2003)

* EAGGF financial year 2004 (16 October 2003 – 15 October 2004)

** N.B. for new Member States export operations started with accession on 1.5.2004.

Belgium, Greece, Portugal, Finland, the United Kingdom as well as Cyprus, Estonia, Lithuania, Latvia, Malta and Poland, Slovakia, Czech Republic did not pay refunds for the export of live bovine animals in the above mentioned period of the EAGGF financial year 2004.

3.2. Information transmitted by member states related to export refunds for live animals

Since 2000, the Commission has asked Member States to send annual data on the amounts of refund refused or recovered. The table in Annex 1 gives an overview of the figures sent by the Member States on the year 2004. This chapter compares the information of the years 2004, 2003 and 2002.

3.2.1. The number of export declarations of live animals exported with refunds

The number of export declarations increased by 9.4% from 6 078 in 2003 to 6 651 in 2004 (figures of the EU-25). As one export declaration may cover a number of animals varying from a truckload to a shipload, it is not possible to establish a general direct relation between the number of export declarations and the number of animals exported.

Further details are given in the table below. *

Member State	Declarations 2004	Declarations 2003	Declarations 2002
DK	57	46	64
DE	4 223	3 681	3 486
ES	22	103	242
FR	1 409	1 631	2 313
IE	11	27	27
IT	1	7	67
LU	1		
NL	531	385	217
AT	356	182	196
SE	6	15	23
PT	3	1	
Subtotal	6 620	6 078	6 635
CZ	7		
HU	16		
SI	8		
Total	6 651		

* This table and the following tables have been established in using the data communicated by the Member States at the date of 31 March 2005 – latest date of communication foreseen in Article 8 of Regulation (EC) No 639/2003.

3.2.2. The number of live animals exported with refunds

The total number of exported live bovine animals, based on the number of export declarations for which refunds were paid, increased with 7 149 animals (3.1%) from 229 278 animals in 2003 to 236 427 animals in 2004 (figures for the market of EU 25). Increase of exports took in particular place in Denmark, Germany, Spain, France, the Netherlands and Austria whereas in Ireland there was a net decrease from 37 776 animals exported in 2003 to 10 572 animals exported in 2004. In Italy the export market has come to a standstill with only 2 animals exported in 2004. Germany stays the largest exporter of animals with refunds, a position that both absolutely and relatively increased from 123 431 animals (53.8%) in 2003 to 145 627 animals (61.59%) in 2004. France comes next with an increase from 42 815 animals (18.7%) in 2003 to 44 108 animals (18.66%) in 2004. The biggest relative increase can be noted for Austria from 4 937 animals in 2003 (2.2%) to 8 764 animals in 2004 (3.71%). For more details, please see the table below.

NUMBER OF LIVE ANIMALS EXPORTED WITH REFUNDS

Member State	2004		2003		2002	
	animals	%	animals	%	animals	%
DK	1 638	0.69%	1 416	0.60%	1 787	0.70%
DE	145 627	61.59%	123 431	53.80%	116 562	47.40%
ES	5 955	2.52%	5 206	2.30%	7 872	3.20%
FR	44 108	18.66%	42 815	18.70%	72 145	29.40%
IE	10 572	4.47%	37 776	16.50%	31 678	12.90%
IT	2	0.00%	145	0.10%	3 064	1.20%
LU	17	0.01%				
NL	18 022	7.62%	12 723	5.50%	7 169	2.90%
AT	8 764	3.71%	4 937	2.20%	5 083	2.10%
SE	729	0.31%	818	0.40%	403	0.20%
PT	55	0.02%	11	0.00%		0.00%
subtotal	235 489	99.60%	229 278	100.00%	245 763	100.00%
CZ	234	0.10%				
HU	512	0.22%				
SI	192	0.08%				
Total	236 427	100.00%				

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

According to the requirements of Article 8(b) and (c) of Regulation (EC) No 639/2003 the Member States communicated the following information:

The Member States refused to pay the refund in full or in part for 408 (2003: 474) export declarations, concerning 2 160 (2003: 3 804) animals. For another 83 (2003: 115) export declarations, concerning 1 183 (2003: 2 643) animals, the export refunds had to be recovered. In total for 1.41% (2003: 2.81%) of the exported animals irregularities occurred in either the refund provisions (like refund code) or in the welfare conditions as mentioned in Directive 91/628/EEC or in Articles 5, 6 and 7 of Regulation (EC) No 639/2003. The reasons for such partly or total refusals or partly and total recoveries reported by the Member States are mentioned under point 3.2.5 of this report. Further details are given in Annex 2.

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

According to the information provided under Article 8(e) and (f) of Regulation (EC) No 639/2003 the major amounts of refunds not paid or recovered were dealt with by Germany, which is also the major exporter (see point 3.2, page 7). In total Germany was involved in €610 881 not paid or recovered refunds (incl. still running recovery), which is 55.96% of the total EU amount of €1 091 690.

The relatively largest amount of non-paid refunds including the still running recovery process occurred in the Netherlands. In a total expenditure of €1 091 690 the non-paid share is 7.93% followed by Austria with the second largest amount of non-payment share of 5.01%. Further details are given in the table below:

Member State	Refunds not paid (EUR) (1)	Refunds recovered (EUR) (2)	Recovery still running (EUR) (3)	Total refunds not to be paid (EUR) [sum (1) to (3)]	Refunds paid (see table 1)	% Refunds not paid
DK					237 768	0.00%
DE	368 698	225 910	16 273	610 881	28 886 136	2.11%
ES					917 008	0.00%
FR	32 045			32 045	13 039 370	0.25%
IE	3 695	6 304	444	10 443	2 031 764	0.51%
IT					14 632	0.00%
LU					5 066	0.00%
NL	14 974	92 300	201 843	309 117	3 899 434	7.93%
AT	129 204			129 204	2 579 477	5.01%
SE					223 018	0.00%
PT						
CZ						
HU					60 172	0.00%
SI					17 725	0.00%
SK						
Total	548 616	324 514	218 560	1 091 690	51 911 570	2.10%

The Regulation provides in either (partly) non-payment if the refunds were not yet definitively paid (Articles 5 and 6) or recovery of payment if it is established after payment that Directive 92/628/EEC has not been complied with (Article 7).

A comparison between 2002, 2003 and 2004 as regards the amount involved shows the following result:

The amount of unpaid or recovered refunds decreased from €1 670 139 in 2003 to €873 130 in 2004. In 2003 the amount refused and recovered represented 2.9% of the total expenditure on refunds; in 2004 this was 2.1%. The both absolute and relatively decrease may be explained by several developments:

- the still pending amounts of refunds to recover, which was €58 680 in 2003 but €218 560 in 2004;
- possible better compliance to welfare conditions by exporters leading to less impact of the customs and veterinary controls;
- the time-lag effects as described in the introduction of this report;
- the scale of transport means (truck or ship).

Further details are given in the table below.

	Partly or completely non payment	Payment definitively recovered	Total
Declarations 2004	408	83	491
Animals 2004	2 160	1 183	3 343
2004 (EUR)	548 616	324 514	873 130

Declarations 2003	474	115	589
Animals 2003	3 804	2 643	6 447
2003 (EUR)	978 270	691 868	1 670 139

Declarations 2002	294	79	315
Animals 2002	2 047	1 869	3 916
2002 (EUR)	332 636	514 037	846 673

3.2.5. The reasons for refusal and recovery of refunds for live animals in 2004

According to the requirements of Article 8(d) of Regulation (EC) No 639/2003 the Member States communicated the following information to the Commission on the reasons for the non-payment and the recovery of the refund for the animals referred to in Articles 8(b) and 8(c) of the same Regulation.

Germany

- Incomplete plan of transport;
- no proof of arrival furnished by surveillance agency;
- police and/or Veterinary services recorded essentially inadequate headroom in the loading part of the truck intended to transport the animals;
- non respect of transport and rest periods;
- death/calving during transport of animals.

France

- During checks at the point of exit of the Customs territory it was found that fewer animals were loaded than declared;
- the veterinary check was negative at the point of destination;
- death during transport of animals before arriving at the point of exit of the Customs territory;
- death/calving during transport of animals;
- abortion/calving during transport of animals as appeared during checks at the point of exit of the Customs territory;
- the means of transport were not in conformity with the welfare conditions as was established in the veterinary check at the point of exit of the Customs territory;
- animals were not fit for transport as appeared during checks at the point of exit of the Customs territory;
- animals died during quarantine at destination;
- animals died during unloading at destination;

- abortion during quarantine.

Ireland

Non compliance with Article 5(1)(c) and Article 5(1)(a) of Regulation (EC) No 639/2003.

The Netherlands

- The refund code was incorrect for 12 declarations concerning 13 animals;
- for 2 declarations with 65 animals the carrier had no authorization according to Directive 91/628/EEC;
- for 4 declarations it appeared that 4 animals were not brought into free circulation in the third country;
- for 5 declaration concerning 174 animals the travel time according to Directive 91/628/EEC was exceeded;
- for 1 declaration concerning 36 animals it was found that the capacity of the vessel was exceeded;
- for 5 declarations it appeared that 9 animals were slaughtered in emergency at the point of destination as the welfare conditions during the journey were not met;
- for 1 declaration 1 animal with injuries had to be put down;
- for 6 declarations it was found that 7 animals calved before release into free circulation in the country of destination;
- for 1 declaration it was found that 1 animal had an abortion during transport;
- for 1 declaration animals were declared on an estimated weight and the real weight determined later was more than 10% bigger than the estimated weight which affects the amount of refunds payable (Article 51 of Regulation (EC) No 800/1999);
- for 1 declaration it was found that 2 animals had to be slaughtered in the country of destination due to sickness;
- for 10 declarations it was found that 19 animals had to be slaughtered in emergency in the country of destination and the reason for this measure could not be established.

Austria

- For 2 declarations concerning 64 animals the food and drink conditions during the transport were not compliant to the animal welfare provisions;
- an excess of the travel period was established for 12 declarations concerning 318 animals;
- death during transport for 2 declarations concerning 4 animals;
- for 1 declaration concerning 2 animals abortion during transport;
- for 1 declaration concerning 1 animal death during unloading.

Slovakia

- Formal problems (No licence, no refund code).

3.3. Clearance of accounts by the Commission

The clearance of accounts procedure has been finalised concerning a series of audits in late 2000 and early 2001 of expenditure on export refunds for bovine animals. Decision 2004/561/CE, published in Official Journal L 250 of 14 July 2004, excluded from Community financing €1064 627.33 of expenditure incurred by the Netherlands because it did not comply with Community rules. Decision 2005/354/CE, published in Official Journal L 112 of 3 May 2005, excluded for the same reason €13823 822.23 and €1649 755.75 in respect of expenditure incurred by Germany and France respectively.

4. REINFORCEMENT OF LEGISLATION

4.1. Regulation (EC) No 639/2003

As announced in the Communication from the Commission to the Council and the European Parliament on the Mid-term Review of the Common Agricultural Policy⁶, the Commission has strengthened existing legislation and, on 9 April 2003, adopted Regulation (EC) No 639/2003. Reinforcement is provided in the mandatory veterinary checks on transport and animals in third countries, in the norms for penalties and on the communication of information by the Member States.

4.2. Regulation (EC) No 118/2003

Commission Regulation (EC) No 118/2003 of 23 January 2003 fixing the export refunds on beef and veal and amending Regulations (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds and (EC) No 1445/95 on rules of application for import and export licences in the beef and veal sector⁷ reduces the number of cases in which a refund may be granted for the export of live bovine animals. This Regulation came into force on 3 February 2003. It abolished export refunds for live animals in the situations where the trade with third countries was insignificant. Since 3 February 2003, export refunds have no longer been paid for animals intended for slaughter, except in the case of third countries which traditionally import them for cultural and/or religious reasons (Egypt, Lebanon). In addition, where it concerns pure-bred breeding animals, in order to prevent any abuse, export refunds are limited to female animals of a maximum of 30 months of age. Although the information in this report is influenced by time-lags (see introduction), it may be assumed that this Regulation partly will have attributed to the decline in the number of exported animals from 245 763 in 2002 to 229 278 in 2003 (see page 7). The reason for the slight increase of exported animals to 236 427 in 2004 mainly resulted, according to an inquiry to the main Member States concerned, from reinforced export of pure breed animals in some Member States (e.g. Austria, the Netherlands). In Germany there was an increase concerning the export of pure breed animals and slaughter animals.

4.3. The possible further amendment of legislation

Following complaints by the Non Governmental Organisations GAIA (Global Action in the Interest of Animals), ECL (European Coalition for Livestock) and CIWF (Compassion in World Farming), the Commission has started again in 2005 to study possibilities for reinforcement of the legislation in the light of the allegations made.

Annex 1 – Overview

Article 8(a) Total number		Article 8(b) refund not paid		Article 8(b) Refund partially not paid		Article 8 (c) Refund recovered		Article 8(e) Refund not paid		Article Recovery
declarations	animals	declarations	animals	declaration	animals	declarations	animals	€ not paid	€ recovered	declaration
57	1 638									
4 223	145 627	40	1 316	222	250	43	890	368 698	225 910	2
22	5 955									
1 409	44 108	106	134					32 045		
11	10 572	7	20			6	13	3 695	6 304	1
1	2									
1	17									
531	18 022	15	51			34	280	14 974	92 300	14
356	8 764	18	389					129 204		
6	729									

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3	55									
7	234									
16	512									
8	192									
		<i>1</i>	<i>74</i>							
6 651	236 427	186	1 910	222	250	83	1 183	548 616	324 514	17

States FR, NL, AT, IE reported the amount of refunds partially not paid included in the amount of refunds not paid.

Annex 2

Article 8(b) Refund not paid		Article 8(b) Refund partially not paid		Article 8(c) Refund recovered		Total animals Art. 8(b) + 8(c)	Total animals ex- ported (see table 2)	re c
declarations	animals	declarations	animals	declarations	animals		animals	
							1 638	
40	1 316	222	250	43	890	2 456	145 627	
							5 955	
106	134					134	44 108	
7	20			6	13	33	10 572	
							2	
							17	
15	51			34	280	331	18 022	
18	389					389	8 764	
							729	
							55	
							234	
							512	
							192	
<i>1</i>	<i>74</i>					<i>74</i>		
186	1 910	222	250	83	1 183	3 343	236 427	

refund code, no licence

** total amount exclusive SK