

Official Journal

of the European Communities

ISSN 0378-6986

C 313

Volume 25

29 November 1982

English edition

Information and Notices

Contents

I *Information*

Court of Auditors

Special report (observations) concerning clearance of the accounts of the
EAGGF Guarantee Section 1

I

(Information)

COURT OF AUDITORS

SPECIAL REPORT

(observations)

concerning

**CLEARANCE OF THE ACCOUNTS
OF THE EAGGF GUARANTEE SECTION**

The structure and operation of the system

This report was adopted by the Court of Auditors at its meeting of 12 October 1982, in application of Article 206a (4) of the EEC Treaty. It was previously sent to the Commission on 7 April 1982. The replies from the Commission to the observations of the Court are annexed hereto.

October 1982

TABLE OF CONTENTS

	Page
<i>SUMMARY OF PRINCIPAL COMMENTS</i>	7
INTRODUCTION	10
1.1. Preparation of the report	10
1.2. General comments on the replies of the Commission	10
1.3. The purpose of clearance	10
1.4. Financial and accounting information	11
1.5. Statements by the Court of Auditors on the question of clearance	11
1.6. The aims of the special report on the operation of the clearance procedure ...	11
PART I — THE SYSTEM IN THEORY AND IN PRACTICE	12
<i>A SYSTEM WHICH IS SOUND IN THEORY</i>	12
2.1. The system of management and budgetary control	12
2.2. The statutory framework of clearance	12
2.3. Consistent and complementary timetables	12
<i>AN INSTRUMENT OF SOUND MANAGEMENT</i>	13
2.4. A means of obtaining information and understanding problems	13
2.5. An opportunity to redirect the implementation of agricultural policies	13
<i>A SYSTEM THAT DOES NOT WORK IN PRACTICE</i>	13
2.6. Decisions that are late	13
2.7. Decisions that are neither final nor complete	14
(a) The provisional nature of the decisions	14
(b) Partial withdrawals of reservations	14
(c) Decisions that are not complete	14
2.8. Decisions that are contested	14
<i>THE REASONS FOR THE MALFUNCTIONING OF THE SYSTEM</i>	15
2.9. Three major reasons	15
UNSUITABLE WORKING METHODS	15
2.10. A working procedure which leads to cumulative delays	15
2.11. A memorandum that is late	15
2.12. Forwarding of information by the Member States and audits on the basis of supporting documents contribute to the malfunctioning of the system	16
(a) The information is forwarded late and is incomplete	16
(b) Audits on the basis of supporting documents in Brussels delay the on-the-spot audit procedure even further	16
2.13. On-the-spot audits	16
(a) Organization of on-the-spot audits	16
(b) Inadequate methods of audit	16
A RIGHT OF REPLY THAT TENDS TO BECOME NEGOTIATION	17
2.14. A procedure intended as a right of reply	17
2.15. Prolonged general negotiations	17
DECISIONS WHICH ESSENTIALLY SETTLE PROBLEMS OF INTERPRETATION IN RETROSPECT	17
2.16. Dual nature of decisions	17
2.17. Dominance of problems of interpretation	17

2.18.	The absence of any assessment of the national systems of management and control	17
	THE CONSEQUENCES OF THE MALFUNCTIONING OF THE SYSTEM	18
2.19.	Numerous consequences	18
	DETIORATION OF THE CONDITIONS OF MANAGEMENT	18
2.20.	Negative effects on management at Community and national level	18
	(a) Central management impaired	18
	(b) Deterioration of the spirit of cooperation in the Member States	18
2.21.	Effect on management of the accounts	18
	(a) Lack of continuity in the annual accounts	18
	(b) Difficulty of checking the cash position	18
	(c) Difficulty of taking account of clearance at national level	18
	MODIFICATION OF THE IMPACT OF CLEARANCE DECISIONS	19
2.22.	Modification in two opposing directions	19
2.23.	Weakening of the sanction	19
2.24.	Disproportionate sharpening of the sanction	19
	WEAKENING OF THE BUDGETARY POWER	19
2.25.	Difficulty in assessing the value of estimates	19
2.26.	Weakening of the scope of discharge	19
	IMPAIRMENT OF THE VARIOUS AUDITS OF THE EAGGF GUARANTEE SECTION	20
2.27.	Greater difficulty in carrying out checks	20
2.28.	Change in the role of the Financial Controller of the Commission	20
2.29.	Accentuation of contradictions between the Community and national systems of audit	21
2.30.	Effect on the audit of the Court of Auditors of the European Communities ...	22
	(a) More burdensome working methods	22
	(b) Scope of its audits reduced	22
	PART II — THE REFORM OF CLEARANCE	22
	THE OPINION OF THE COURT ON THE THREE-YEARLY EXAMINATION OF THE FINANCIAL REGULATION	22
3.1.	Encouragement to respect the statutory timetable	22
	CONDITIONS FOR IMPROVEMENT OF THE CLEARANCE PROCEDURE	23
3.2.	Three main conditions	23
	FACILITATE THE PREPARATION OF CLEARANCE	23
3.3.	Updating of the memorandum prior to management	23
3.4.	Adaptation of the memorandum to a restored clearance procedure	24
	RATIONALIZE THE AUDIT TECHNIQUE	24
3.5.	Ensure continuous monitoring	24
3.6.	Change the nature of the audits accordingly	24
3.7.	Overcome the problems of limited audit resources	25
	INTERPRET THE REGULATIONS EARLY IN THE PROCESS	26
3.8.	Resolving problems of interpretation	26
3.9.	Efforts by the Commission	26
3.10.	Proposal by the Court: an <i>ad hoc</i> procedure	26
	FEASIBILITY OF RESTORING THE CLEARANCE SYSTEM TO ITS ORIGINAL FUNCTION	26
3.11.	Coordinate the Commission's resources	26
	(a) Staff resources	26
	(b) Internal coordination procedures	27
3.12.	Resolve the Member States' problems in submitting the summary accounts at 31 March	27

3.13.	Ensure that the system maintains the quality and the reliability of the accounts	27
CONCLUSIONS		27
4.1 to		
4.6.	The failure of the system is detrimental to all parties. It is in the general interest that the procedure be respected and this presupposes a joint effort....	27
4.7.	Clearing the backlog	28
List of Annexes		29

SUMMARY OF PRINCIPAL COMMENTS

Point

- (a) For the first 10 years of operation of the present system of financing the EAGGF Guarantee Section, out of 58 000 million EUA declared by the Member States, only 15 000 million EUA been finally accepted (26 %) 1.4.
- (b) Under the current legislation the clearance procedure and decisions, which are essential features in the audit of the EAGGF Guarantee Section, form a logical part of the Community budgetary and financial rules 2.1 to 2.3
- (c) The clearance procedure and decisions, as means of obtaining information on agricultural policy measures and of understanding and re-orientating them, should be essential instruments in the sound management of the EAGGF Guarantee Section 2.4 and 2.5
- (d) It appears in practice that the procedures do not work properly and that the clearance decisions are taken late, are not final, are incomplete and are disputed. Overall, none of the financial years which has formed the subject of a decision can be considered as having been finally cleared 2.6 to 2.8
- (e) Analysis of the working procedures of the Commission shows that the present arrangements will inevitably lead to cumulation of the causes of delay 2.9 and 2.10
- (f) The late updating of the memorandum designed for use by the Member States to present end-of-year summaries of their financial and statistical data increases the difficulties 2.11
- (g) The annual summary accounts and attached information are sent in late by the Member States and are incomplete 2.12 (a)
- (h) The audits on the basis of supporting documents in Brussels delay the process of on-the-spot audit even further and add to the complexity of the memorandum 2.12 (b)
- (i) The audit methods used to date are inadequate and the use of sampling does not follow any known rule 2.13
- (j) The discussions following the audit, which are theoretically only the Member States' right of reply to the Commission, tend to become negotiations, which further delays the clearance decisions 2.14 and 2.15
- (k) The decisions essentially resolve problems of statutory interpretation, in retrospect, without taking into consideration the quality of national systems of management and control 2.16 to 2.18

- (l) This situation leads to a deterioration in the management of the EAGGF Guarantee Section; relations between the Commission and the Member States are deteriorating and clearance is losing any educational value 2.19 and 2.20
- (m) Management of the accounts is affected in terms of continuity of accounts and balances, and the clearance decisions are difficult to assimilate at national level 2.21
- (n) The impact of the clearance decisions is distorted by inflation and by their "multiplier" effect 2.22 to 2.24
- (o) Budgetary power is weakened by a lack of information prior to budgetary authorization and a discharge procedure relating to material that is neither certain nor up-to-date 2.25 and 2.26
- (p) Audits of all manner are impaired and, as far as the clearance audit itself is concerned, there is greater difficulty in carrying out physical checks 2.27
- (q) Intervention by the Commission's Financial Controller results in the proliferation of on-the-spot audits without expediting or consolidating the clearance decisions 2.28
- (r) The contradictions between Community audit systems and national external audits are accentuated 2.29
- (s) The Court of Auditors considers that the means and scope of its own audits are adversely affected by the delays in clearance, particularly in respect of the discharge procedure 2.30
- (t) The Court of Auditors delivered an opinion on 21 May 1981 in which it suggested restoring the clearance procedure to its original function by encouraging compliance with the present statutory timetable. This measure should be supplemented by ancillary measures to form a logical whole 3.1 and 3.2
- (u) Firstly, the preparation of clearance would be facilitated by updating the memorandum prior to the management stage and making it truly suitable to the needs of clearance 3.3 and 3.4
- (v) Audit would be continuous throughout the management stage and the audit techniques should be rationalized by proper use of systems audits and sampling 3.5 to 3.7
- (w) Problems of interpretation should be dealt with as soon as they occur, and the financial burden clearly allocated, so as to provide a measure of security for the Member States 3.8 to 3.10
- (x) The feasibility of this reform depends upon proper use of the Commission's resources and an effort by the Member States to submit reliable accounts at 31 March 3.11 to 3.13

- (y) The failure of the clearance system is detrimental to all the parties concerned in the management of Community funds. It is in the general interest that the procedure be followed and this presupposes a joint effort 4.1 to 4.6
- (z) Settlement of past matters (financial years closed but not yet cleared and current financial year) could be accelerated on condition that guarantees on the implementation of the reform be obtained beforehand 4.7

INTRODUCTION

1.1. Preparation of the report

Studies in preparation of this report were begun in 1980, and in 1981 bilateral discussions were organized with the supreme audit bodies of the Member States and the national administration departments concerned, then with the departments of the Commission.

The draft report was examined by the Court of Auditors on 1 April 1982 and officially sent to the Commission on 7 April 1982. After that date, new discussions were held with the Commission, at all levels, in particular on 8 and 27 September and 11 October 1982. The official replies of the Commission reached the Court on 6 October 1982.

The report was finally adopted by the Court of Auditors on 12 October 1982.

1.2. General comments on the replies of the Commission

The Court takes note of the text of the Commission's replies, which are published at the end of this report.

The Court notes that in some cases the Commission has replied to observations which the Court did not make, at least in the terms in which they are stated by the Commission.

The Court wishes to stress the following points in particular:

- (i) It was certainly not the aim of the Court, nor could it be the effect of its report, to "reduce the role of the Commission as agency responsible for the management of the EAGGF, and for the execution of the entire budget".
- (ii) Nowhere has the Court proposed to the Commission that it "give second-rank status to clearance operations", still less that it "rely entirely on national machinery" and in particular on "national auditing arrangements".
- (iii) The Court did not say that "the Financial Controller could not carry out on-the-spot audits to satisfy himself *inter alia* that the Community funds are being properly administered by the Member States". The conclusion which the report draws is that his use of

on-the-spot audits in the Member States has not to date had any notable positive effect on the operation of the clearance procedure.

The suggestions made at the end of the report for clearing the backlog could indeed involve a faster and less intensive audit of past material, but they do of course assume that the entire present practice first be reformed so as to provide a better guarantee of sound financial management for the future.

The replies of the Commission should be read in the light of the above remarks.

1.3. The purpose of clearance

A characteristic feature of the financial management of the EAGGF Guarantee Section is that it is both decentralized and phased over a period of time. Each month the Commission disburses appropriations of the EAGGF Guarantee Section in the form of advances to paying agencies which, in the Member States, make payments in favour of individuals. The Commission records in its accounts the amounts declared by the Member States each month, then enters the total for the year in the revenue and expenditure account of the Communities. However, it cannot at this stage ensure that the accounting information is accurate.

Only clearance of the accounts of the paying agencies and the Member States can endow this financial management in retrospect with a greater degree of finality.

- (a) It involves, in the first instance, an inspection procedure which enables the Commission to ascertain exactly how the operations financed by the EAGGF Guarantee Section in the Member States have been managed and monitored in the course of a given year.
- (b) Clearance is subsequently a decision through which the Commission recognizes that part of the expenditure incurred in a Member State by its paying agencies, which may be finally charged to the EAGGF Guarantee Section under a financial year and, in consequence, then takes the necessary steps in respect of the cash balances of Community funds held in the Member States at the end of the financial year in question. In this regard, the clearance decision, which under the rules in force is supposed

to be taken by 31 December of the year following the year to be cleared, is the final act of management by the Commission in respect of that financial year.

- (c) These two aspects of clearance of the accounts combine to make it a condition for the normal exercise of the budgetary powers of the Community.

Exact knowledge of the operations financed under the most recent financial years should ensure the best possible evaluation of the budgetary estimates when authorizing the budgets for the years to come. It should also ensure effective budgetary control, in so far as discharge for previous financial years is granted with full knowledge of the facts (i.e. on the basis of the final accounts).

1.4. Financial and accounting information

Since the entry into force of the present system of financing the common agricultural policy at the beginning of 1971, of the 10 financial years which, under the rules applicable to this system, should have been cleared by 31 December 1981 (1971 to 1980) only the first five had actually been cleared.

For these 10 financial years, the expenditure declared monthly by the Member States and recorded in the revenue and expenditure accounts of the Communities amounted to 58 085.2 million EUA. The expenditure finally recognized as chargeable to the EAGGF Guarantee Section, following successive clearance operations, represents to date 15 026.6 million EUA, or 26 % of the total (Annexes I and II). In addition, inspection prior to clearance of the expenditure of the financial years 1976 and 1977 covered some 12 400 million EUA.

1.5. Statements by the Court of Auditors on the question of clearance

In its reports on the accounts for both 1977 and 1978 (1), the Court of Auditors noted the delay

(about five to six years) with which clearance decisions were made. In its audit of the 1979 and 1981 accounts (2), the Court also noted that these decisions were not always final.

The numerous difficulties created by this situation led the Court to suggest, in its opinion of 21 May 1981 (3) on the Commission proposal under the three-yearly examination of the Financial Regulation of the Communities, that appropriate provisions be included in the Financial Regulation itself to give clearance procedures and decisions their proper place in the overall system of management and control of the EAGGF Guarantee Section.

1.6. The aims of the special report on the operation of the clearance procedure

This report is essentially a study of the operation of the clearance mechanism, as it results from the rules for financing the common agricultural policy introduced in 1970. Analysis and criticism of the material content of the clearance decisions adopted to date are given only to illustrate the operation of the system.

This study begins by examining how clearance procedures and decisions fit into the general system of management and control of the EAGGF Guarantee Section.

The Study finds that the system is not working properly, and then attempts to analyze the causes which stem from the working methods of the Commission and the state of its relations with the Member States.

Finally, after evaluating the consequences of this situation, the study refers to the proposal made by the Court in its opinion of 21 May 1981 and sets out additional proposals for a reform of working methods which would restore to the clearance procedure its original function.

(1) OJ No C 313, 30.12.1978 (points 2.15 to 2.22); OJ No C 326, 31.12.1979 (points 2.24 to 2.28 and 2.46).

(2) OJ No C 342, 31.12.1980 (points 4.46 to 4.55) (comments sent to the Commission on 15 July 1982).

(3) OJ No C 232, 11.9.1981, p. 64 (comments on Article 98 (2) of the Commission proposal).

PART I

THE SYSTEM IN THEORY AND IN PRACTICE

*A SYSTEM WHICH IS SOUND IN THEORY***2.1. The system of management and budgetary control**

(a) The general Financial Regulation of 21 December 1977 and the Agricultural Financial Regulation (Council Regulation (EEC) No 729/70 of 21 April 1970), together with various specific implementing regulations, set up a system for the drafting, implementation and control of the budget with regard to the operations of the EAGGF Guarantee Section.

(b) The main features of this system are that:

- for a given financial year (n), the detailed management in the Member States — under their day-to-day responsibility — proceeds on a monthly basis, using funds disbursed in the form of advances by the Community,
- a summary of these operations as declared by the Member States is given in the revenue and expenditure account of the Communities on 1 June of the following financial year (n+1),
- the Court of Auditors issues a report in the months following, based on the revenue and expenditure account in particular,
- before 30 April of the following financial year (n+2), the Parliament gives discharge to the Commission in respect of the implementation of the budget on the basis of the revenue and expenditure account and the report of the Court of Auditors.

2.2. The statutory framework of clearance

(a) Article 5⁽¹⁾ of Regulation (EEC) No 729/70 provides that, for the purposes of clearance, the Member States shall transmit their accounts to

⁽¹⁾ See text of Article 5 of Regulation (EEC) No 729/70 (Annex IV hereto).

the Commission which shall adopt clearance decisions, after consulting the EAGGF Committee, before the end of the year following the year to be cleared.

(b) This timetable is laid down in greater detail in Article 1⁽²⁾ of Commission Regulation (EEC) No 1723/72 of 26 July 1972 which provides that the Member States shall forward to the Commission, no later than 31 March of the year following the financial year to be cleared, the annual summaries of accounts and the reports drawn up by the paying agencies.

(c) Finally, Article 8⁽³⁾ of the same Regulation determines the content and scope of the decision to clear the accounts. It is to cover determination both of the amount of expenditure recognized as chargeable to the EAGGF Guarantee Section and of the amount of financial resources still available in each Member State after clearance.

2.3. Consistent and complementary timetables

As can be seen from the table in Annex III, the respective timetables for management, budgetary control of the EAGGF Guarantee Section and clearance of the accounts are closely linked.

The combination and the observance of these timetables allows the Council, and then the Parliament, to perform their work in respect of discharge for the implementation of the budget by having available at the same time for a given financial year (n):

- the revenue and expenditure account of the Community at 1 June (n+1) which shows the utilization of advances and the amount of payments to private recipients,

⁽²⁾ See text of Article 1 of Regulation (EEC) No 1723/72 (Annex IV hereto).

⁽³⁾ See text of Article 8 of Regulation (EEC) No 1723/72 (Annex IV hereto).

- the annual report of the Court of Auditors at 30 November (n+1),
- the clearance decision at 31 December (n+1).

Taken on this date, the clearance decision shows which items of expenditure entered in the revenue and expenditure account are finally charged to the Community. Expenditure to be recovered⁽¹⁾ from the Member States will be entered in the revenue and expenditure account of the following year [revenue and expenditure account of year n+1, adopted on 1 June (n+2)], and can be followed up

when the following discharge procedure takes place.

(1) Recovery in respect of clearance is carried out automatically by immediate correction of the account covering the EAGGF Guarantee Section appropriations available to the Member State (account being taken of Article 1 of Regulation (EEC) No 380/78). This amounts in practice to placing at the disposal of the Member State, in the month following the clearance decision of the EAGGF Guarantee Section, an advance reduced by the sum to be recovered.

AN INSTRUMENT OF SOUND MANAGEMENT

2.4. A means of obtaining information and understanding problems

Through their audit missions, the officials appointed for this purpose by the Commission are in a position to obtain information on all aspects of the management and control of the EAGGF Guarantee Section and to send this information to the Commission departments concerned. Under Regulation (EEC) No 729/70 (Article 9 (2)) "the (officials) shall have access to the books and all other documents relating to expenditure financed by the Fund" in order to "check whether administrative practices are in accordance with Community rules, whether the requisite supporting documents exist and tally with the transactions financed by the Fund and the conditions under which transactions financed by the Fund are checked".

cal problems encountered by the Member States, should normally place the Commission in a stronger position when participating in the drafting of agricultural regulations or assuming management responsibilities than if it had only indirect and abstract information at its disposal (press, opinions of management committees, statistics, etc.).

Up-to-date information should act as a guarantee that where regulations are unsuitable or inadequate the Commission will act quickly to redirect the Community legislation or management.

2.5. An opportunity to redirect the implementation of agricultural policies

Exploitation of the information obtained through clearance, and a sound understanding of the practi-

Therefore the clearance procedure can, if so desired, be an instrument of sound management of the agricultural policy as well as a process of final adoption of the EAGGF Guarantee Section accounts.

A SYSTEM THAT DOES NOT WORK IN PRACTICE

2.6. Decisions that are late

The delay by the Commission in completing the work of clearance is such that the clearance decision has lost all contact with the normal timetable for the management and control of the EAGGF Guarantee Section.

To every comment made by the Court on this point since 1978 the Commission's reply has been that it has taken steps to make up these delays⁽²⁾.

(2) OJ No C 313, 30.12.1978, p. 27; OJ No C 326, 31.12.1979, p. 27; OJ No C 342, 31.12.1980, p. 262.

However, in 1982, the Court found that the situation in respect of clearance decisions had still not improved.

As can be seen from the comparative table in Annex V, the most recent decision still shows a delay of five years. This therefore means that, if such a situation were to continue, the 1980 accounts, which should have been cleared before the end of 1981 with a view to discharge in April 1982, would not in fact be cleared until 1986.

2.7. Decisions that are neither final nor complete

The clearance decisions to date are not final and they contain shortcomings which further weaken their effect.

- (a) The provisional nature of the decisions may take several forms and affect their content in various ways :

(i) *Quantified provisional refusal*

In certain clearance decisions (Federal Republic of Germany 1971, France 1971, 1972, 1974 and 1975, Belgium 1972, 1973 and 1975, Netherlands 1973 and 1974, Italy 1973 and 1975), the Commission has provisionally refused to charge certain expenditure to the EAGGF Guarantee Section, clearly indicating the purpose and amount and giving the Member State concerned a chance to provide proof of its eligibility for reimbursement from the EAGGF Guarantee Section. In some cases, the period of refusal is indefinite; in others, the provisional refusal automatically becomes final if, before the next clearance decision, the Member State concerned has not been able to prove the eligibility of the amounts refused.

(ii) *Non-quantified provisional acceptance*

Other clearance decisions (France, Belgium and Italy for the financial years 1973, 1974 and 1975) have indicated in their preambles that entire fields of expenditure (for example: fruit and vegetables and/or milk products) were provisionally charged to the EAGGF Guarantee Section, but could be subject to subsequent adjustment in the light of enquiries in progress, with no mention of the date on which the reservation would be withdrawn.

- (b) The concept of a provisional decision is reflected in later decisions by the inclusion of retrospective provisions designed to withdraw

previous reservations. However, it should be noted that, up to now, these withdrawals have only been partial and it is not clear whether the balance of the amounts refused provisionally should be considered as finally refused or not.

- (c) The clearance decisions do not state sufficient grounds, are lacking in detail and sometimes inaccurate.

(i) The preambles are generally insufficient to provide the external auditor and the discharge authority with exact and detailed knowledge of the operations which have been recognized as chargeable to the EAGGF Guarantee Section or of those which have not been, and in the latter case, the reasons for the refusal to charge such amounts to the Fund.

(ii) The clearance decisions and their annexes do not distinguish between the different operations on which the clearance decisions are based: figures left unchanged, or corrected up or down.

(iii) The terms of the decisions are such that it is not always possible to measure in book-keeping terms the effect of the Commission's numerous reservations on the accounts. Some reservations, or withdrawals of reservations, appear in the preambles, but no conclusion is drawn as to the totals in the accounts to which they relate (Belgium in 1973 and 1974).

Furthermore, the reservations are formulated in such a way that it is impossible to tell from reading them whether the provisional refusals are included in the amounts finally refused or not (France in 1975).

In sum, none of the financial years which has been the subject of a clearance decision since the entry into force of the financing system established by Regulation (EEC) No 729/70 can be considered with certainty to have been finally cleared.

2.8. Decisions that are contested

It is not clear whether the existence of litigation in the Court of Justice is directly linked to the malfunctioning of the system described above. However, there is certainly an increase in the number of cases and this adds further to the uncertainty of the clearance decisions.

Faced with clearance decisions which *de facto* involve financial sanctions the Member States are, it appears, naturally tempted to take their case to the Court of Justice.

Nevertheless, the judgments issued by the Court of Justice (1), with the exception of Case 18/76 of 6

(1) Cases 11/76 of 7 February 1979 (Netherlands); 15/76 and 16/76 of 7 February 1979 (France); 819/79 of 14 January 1981 (Federal Republic of Germany); 820/79 of 25 September 1980 (Belgium); 1251/79 of 27 January 1981 (Italy).

February 1979 on the clearance of the accounts of the Federal Republic of Germany, have up to now confirmed the views of the Commission. Essentially, the view taken by the Court of Justice appears to have been that the procedures followed by the Commission offered sound guarantees to the Member States and that, where several interpretations were possible, those adopted by the Commission could not be called into question unless there was some irregularity on its part.

THE REASONS FOR THE MALFUNCTIONING OF THE SYSTEM

2.9. Three major reasons

The Court of Auditors considers:

- (i) that the Commission has not been able to develop a working method which enables it to fulfil its obligations;
- (ii) that the procedure has been largely diverted from its original purpose;
- (iii) that the decisions essentially settle problems of interpretation in retrospect, without considering the quality of the Member States' management and control.

UNSUITABLE WORKING METHODS

2.10. A working procedure which leads to cumulative delays

The working procedure followed by the Commission is such that no stage of the audit of the accounts of a given Member State may be commenced before the previous stage has been completed (Annex VI).

Some stages (memorandum prior to the audit, summary document prior to the decision) are of a multilateral nature and thus form a corresponding number of periods of waiting for all the Member States, since the multilateral stage can only be commenced after all the previous nine bilateral procedures have been completed.

Moreover, the Commission has developed the custom, for practical reasons, of carrying out the bilateral procedures simultaneously. The results of one may by analogy affect the same stage in the other bilateral procedures.

This work schedule applied until now to nine (and from the 1981 accounts to 10) Member States thus entails cumulative delays and offers virtually no possibility for recovering the time lost.

2.11. A memorandum that is late

(a) The memorandum is a working document which is initially prepared by the Commission after examination in the EAGGF Committee and sent to the Member States to enable them to prepare their summary annual accounts for the purposes of clearance. After each financial year, the memorandum is updated by the Commission following the same procedure. In addition to a general introduction, the document comprises three sets of information:

- (i) it gives the specimen tables which the Member States are requested to use for presenting their accounts and providing explanatory information in annex;
- (ii) it contains, by intervention measure, headings explaining which methods should be used to present these tables and the extent to which the information in them should be analyzed;
- (iii) where appropriate, it states, by intervention measure, the rules for applying the legislation and monitoring its application and the way in which the files in the Member States containing the individual data on validation and the supporting documents should be presented.

(b) Under the present system, as long as the Member States are not in possession of an up-to-

date memorandum, it is very difficult or even impossible for them to begin to prepare their summary annual accounts. Generally the Commission updates the memorandum at the beginning of the year following the year to be cleared and organizes consultation on the updating in February/March. The document may be considered as final in about March, at a time when it is already physically impossible for the Member States to submit their summary annual accounts within the statutory period (i.e. before 31 March). For 1981 there has been a slight improvement since the updating was discussed in the EAGGF Committee on 16 February 1982.

- (c) It should be noted that the later the updating the more difficult it is for the Member States to submit accounts, particularly where the amendment to the memorandum is intended to obtain a new or different type of information which the Member States, or least some of them, did not consider necessary, on the basis of previous information, to record separately.
- (d) Finally, the semi-legislative nature of certain parts of the memorandum creates problems of its own. The question may reasonably be raised whether this document is still a tool to facilitate the work of inspection or has become rather the *de facto* exercise of a power to give accounting instructions to the administrative departments.

2.12. Forwarding of information by the Member States and audits on the basis of supporting documents contribute to the malfunctioning of the system

- (a) *The information is forwarded late and is incomplete*

The information for clearance is sent in by the Member States with some delay, varying from country to country. Often the information is transmitted in several stages, sometimes after a reminder has been sent by the Commission.

Moreover, certain Member States systematically refrain from providing reports from the national audit bodies on the paying agencies, or on the operations financed by the EAGGF Guarantee Section, and only submit descriptions of the national management and control systems as required by Article 5 of Regulation (EEC) No 1723/72, themselves summary to the point where it is impossible to tell what precautions have been taken in the

Member States by individual measure to ensure proper disbursement of the Community expenditure.

- (b) *Audits on the basis of supporting documents in Brussels delay the on-the-spot audit procedure even further*

On the basis of the information received from the Member States, the Commission departments carry out an initial series of documentary audits in Brussels. These audits are undoubtedly necessary, but at present they impede the procedure in two ways:

- (i) since they are part of a linear working procedure, as long as they have not been completed, they prevent later stages being started;
- (ii) they are tending to become an independent stage of audit separate from the on-the-spot audit, leading the Commission departments to request the Member States for increasingly detailed information.

2.13. On-the-spot audits

- (a) *Organization of on-the-spot audits*

Since it is impossible for them to audit all the intervention measures in the Member States as thoroughly as they should, and as they wish to make up a large part of the delays, the Commission departments have adopted a selective audit procedure. They have defined priorities to be followed in planning their on-the-spot visits.

In order to establish these priorities, they apply various criteria such as the volume and growth rate of the expenditure, the innovative nature of the measure or of the amendments to it, the difficulties encountered in the past, the likelihood of fraud and the risks of wrong interpretation, etc.

In practice, on-the-spot audits in the Member States form an important part of the clearance work. For the audit of the 1974/75 accounts and subsequently of the 1976/77 accounts, the departments responsible for clearance devoted an average of 527 days/member of audit staff, to which must be added an average of 88 days/member of staff for the presence of staff from the Commission's financial control department (point 2.28).

- (b) *Inadequate methods of audit*

- (i) The audit is confined almost exclusively to the paying agencies and to an

examination of the files held by these bodies.

- (ii) In general, these on-the-spot audits consist more of reconciliation of accounts than of analysis of the management and control of Community legislation. When the workings of management and control are assessed, it is only by examination of individual files, selected by *ad hoc* methods of sampling, and not by means of any systems analysis.
- (iii) The use of the results of these audits by sampling does not follow any recognized rule. Sometimes only the operations actually inspected are taken into consideration. On other occasions, all operations of the same kind are called into question on the grounds that the samples audited cannot guarantee that application is entirely in conformity with Community legislation.

A RIGHT OF REPLY THAT TENDS TO BECOME NEGOTIATION

2.14 A procedure intended as a right of reply

As soon as the on-the-spot audits on the premises of the paying agencies have taken place, the Commission commences a "dialogue" with the Member States (comments by letter, reply of Member States, bilateral meetings, additional written information) which, after a final multilateral stage (summary document, consultation of EAGGF Committee), results in the adoption of clearance decisions.

2.15. Prolonged general negotiations

The information obtained by the Court during detailed discussions in the Member States shows that, although it meets a need, the "dialogue" has tended to deteriorate (most of the Member States have come to consider it merely as a "dialogue of the deaf"), robbing the clearance decisions of some of their substance and delaying their adoption still further.

In such a context, it is not surprising to find that if the delays tend to decrease during the stage of on-the-spot audits, they increase during the stage of "dialogue" and final decision (Annex V).

The Member States, who in the beginning neglected this stage in the clearance procedure, have now come to show much greater interest in it in order to protect themselves against some of the consequences of the system's deterioration, in particular the multiplier effect connected with its delays (point 2.24).

DECISIONS WHICH ESSENTIALLY SETTLE PROBLEMS OF INTERPRETATION IN RETROSPECT

2.16. Dual nature of decisions

The clearance decisions taken at the end of this procedure appear to be based mainly on interpretation in retrospect of the regulations and pay virtually no attention to the quality of the Member States' administrative and financial management and control.

2.17. Dominance of problems of interpretation

Apart from some corrections based on the absence of supporting documents or their poor probative value, on errors of calculation (material or otherwise), and on accounting faults, the main corrections to which the clearance decisions give rise result from differences in interpretation.

If the settlement of these problems appears necessary for the sound financial management of the EAGGF Guarantee Section, it is most regrettable that it occurs after the event, with considerable delay, as part of the clearance procedure, thus losing any value it might have had during management and even giving rise to problems of its own (points 2.20 and 2.24).

2.18. The absence of any assessment of the national systems of management and control

To judge from their preambles and from the preparatory work, the clearance decisions do not take into account the quality of the national systems of management and control.

This means that the procedure which leads to the clearance decisions reveals little of how exactly "Guarantee" expenditure is effected in the Member States and, in consequence, that the Commission can rarely base proposals for harmonization of the conditions of application of the EAGGF Guarantee Section, in the Member States, on the results of its clearance audits.

THE CONSEQUENCES OF THE MALFUNCTIONING OF THE SYSTEM

2.19. Numerous consequences

The malfunctioning of the clearance procedure and decisions has a large number of prejudicial effects without any compensating benefit. This malfunctioning touches upon management responsibilities, the scope of the clearance, the exercise of budgetary power and the organization of the various types of audit.

DETIORATION OF THE CONDITIONS OF MANAGEMENT

2.20. Negative effects on management at community and national level

(a) *Central management impaired*

The Commission is not in a position to make rapid use of information that it could obtain during clearance when a rule shows a defect which makes it difficult to apply. It is only after long delay, or on the basis of indirect information, that it will be able to make legislative proposals or take the necessary management decisions.

(b) *Deterioration of the spirit of cooperation in the Member States*

The Commission departments like to stress the educative role of clearance for the national managers. This function, however, can never be more than theoretical since, given the known delays in clearance, the majority of the regulations concerned have ceased to exist or have been amended.

On the other hand, the Member States view intervention by the Commission in the clearance procedure more as a censure of their own actions than as a contribution to the sound management of the EAGGF Guarantee Section. Their attitude is therefore simply defensive. The managers in the Member States for their part are increasingly reluctant to assume responsibility, particularly as in some Member States they may in fact be personally liable.

2.21. Effect on management of the accounts

(a) *Lack of continuity in the annual accounts*

As a result of the delays, the defects in the clearance decisions and their lack of finality (points 2.6 to 2.8), it is in fact physically difficult at present to check whether, since the implementation of the new system of financing in 1970, the accounts of the EAGGF Guarantee Section in the Member States follow on correctly from one year to another. The adjustments made following judgments of the Court of Justice, or partial withdrawals of reservations in the accounts of funds available attached to the clearance decisions of the financial years concerned. It cannot be ascertained directly from examination of the latest accounts cleared whether all adjustments to the previous accounts have been taken into consideration.

(b) *Difficulty of checking the cash position*

If the Commission did manage to clear all the financial years currently pending, it might have considerable difficulty in reconciling the 1981 accounts cleared with the statements of the cash position of the Member States at the end of the financial year 1981, as they result from the current accounts. External audit of such reconciliations would in any case prove extremely difficult.

(c) *Difficulty of taking account of clearance at national level*

The delays, together with the provisional and partial nature of clearance, make it more difficult for the national budgetary and accounting systems to take account of clearance.

- (i) In the Community system, the clearance decisions have an immediate effect. However, the same does not always apply to the Member States, whose executive authorities must often request the budgetary authority to finance the amounts refused upon clearance.

In certain internal political situations, such requests, based on facts which relate to earlier

management, may prove very delicate (at present several Member States have to resolve problems raised by the clearance of the 1971, 1972 and 1973 accounts).

- (ii) Another difficulty often arises from the need to correct the accounts of the financial year concerned. Coming several years late and often after the supreme national audit bodies have made their final decision on these accounts, this is quite simply impossible under the domestic law of certain Member States.

MODIFICATION OF THE IMPACT OF CLEARANCE DECISIONS

2.22. Modification in two opposing directions

The sanction formed by clearance will, if it consists in rejecting expenditure, be affected by delay. However, this effect takes two opposite forms which do not balance each other out.

2.23. Weakening of the sanction

As time passes, the Commission finds it difficult to penalize irregular practice, particularly where it concerns measures which are subsequently suspended, or where the error is so great that the penalty would be difficult to bear (e.g. the systematic destruction of supporting documents) (point 2.27).

Moreover, the deductions arising from clearance are decided upon at nominal value without the amounts being updated. Given the effects of inflation in a number of Member States, a delay of six years may cause a *de facto* reduction of 80 % in the amount to be recovered. It should be noted that, in such a case, the loss in value is borne by the Community budget.

2.24. Disproportionate sharpening of the sanction

Conversely the delay in clearance itself has a multiplier effect on the sanction. The action referred to

in a clearance decision may, particularly where it results from routine practice, have produced the same effects over several years and may not have been corrected as long as it has not been finally condemned. In these circumstances the financial impact of the penalty which results from a clearance decision may be assessed, in advance on decisions to come, by multiplying the initial sanction by the number of years' delay, and sometimes even by using coefficients taking account of inflation, or the annual increase in the number of operations concerned by the measure. For an initial penalty of 100, the financial impact will sometimes be 1 000. Where, therefore, the practice condemned was not discovered and criticized in good time by the Commission, the actual penalty imposed may appear out of proportion.

WEAKENING OF BUDGETARY POWER

2.25. Difficulty in assessing the value of estimates

Since the budgetary authority has no definitive information on the operations financed by the EAGGF Guarantee Section, and has quasi-definitive information only for years long past, it is not accurately informed at the time it has to adopt the budget and set the general pattern of budgetary authorization for the years to come. In particular, the "expenditure" columns of previous years appearing in the budget document are subject to revision by an undetermined amount.

2.26. Weakening of the scope of discharge

- (a) Failure to respect the timetable laid down by the regulations has negative effects on discharge of the budget. In this respect, the three main participants in discharge are involved.

- (i) By not respecting the clearance timetable, the Commission is not able to assume full responsibility for its management at the time that it requests discharge for implementation of the budget. The accounts that

it submits to the two branches of the budgetary authority are, for the part relating to the EAGGF Guarantee Section, no more than book-keeping records of information sent in by the Member States.

- (ii) In these circumstances, the Council resolution on discharge does not, in respect of the EAGGF Guarantee Section, relate to the Commission's accounts but to information sent in, under their own authority, by the Member States which make up the Council. Such ambiguity cannot fail to have an effect on the content of the resolution.
- (iii) The Parliament, by granting discharge to the Commission for its implementation, issues an opinion on information covering, for nearly three-quarters of the budget, financial operations for which the Commission has not yet assumed responsibility and which is therefore likely to be considerably amended at a later date.
- (b) By exonerating the Commission from a responsibility which it has not yet really assumed, and by making its decision without being in possession of all the necessary information, the Parliament finds itself granting discharge in circumstances which deprive it of most of its significance. Discharge thus appears as a largely theoretical exercise, in that it relates to matters which are neither certain nor up to date.

Thus, by April 1982, the Parliament has, for the purposes of successive discharges, needed to examine the global management of some 58 000 million EUA since the introduction of the current system of financing the EAGGF Guarantee Section. At the same date, and for the same management period of 1971 to 1980, the Commission has only finally committed itself in respect of 15 000 million EUA. It has nonetheless requested discharge for the 58 000 million EUA (point 1.2.).

- (c) The argument that budgetary control could be exercised on the occasion of the discharge given in the year following the (late) adoption of the clearance decisions is extremely questionable. It means in practice that, for the 1974 and 1975 accounts, the Parliament will come to

exercise its power of budgetary control on the occasion of discharge for the financial year 1981 (i.e. in April 1983).

IMPAIRMENT OF THE VARIOUS AUDITS OF THE EAGGF GUARANTEE SECTION

2.27. Greater difficulty in carrying out checks

Delay affects the actual implementation of the clearance procedure. By intervening several years after the event, the Commission usually runs the risk of dealing with officials who were not responsible for the management examined. Where the staff have remained the same it is necessary to call on their memory of events, and on very complex subjects this may be a handicap both for the Commission and for these same officials in view of the amounts involved.

Moreover, the search for supporting documents which have generally been sent to the archives may, in such a context, prove very difficult, or even impossible, particularly when, contrary to Article 4(2) of Regulation (EEC) No 1723/72, these documents have been destroyed ⁽¹⁾.

2.28. Change in the role of the Financial Controller of the Commission

The delays in clearance paradoxically favour a dispersion of the Commission's audit resources by leading the Commission's financial control department to carry out on-the-spot audits in the Member States, sometimes in association with the authorizing officer's department and sometimes alone.

- (a) Under the special system applicable to EAGGF Guarantee Section expenditure, the Commission's Financial Controller must give his approval for the most essential acts of management

⁽¹⁾ For example, the destruction of supporting documents in the United Kingdom made it impossible for the Commission to directly audit the aid granted in 1974 and 1975 to social beneficiaries (for butter and beef and veal). In order to accept the corresponding expenditure (25 million EUA overall), the Commission granted the existence of "teething problems on accession".

of the Fund, namely the making available of appropriations in the form of advances to the Member States and the final charging to the Community of the expenditure declared by the Member States (i.e. the clearance decision). On the latter occasion, he is entitled, as part of the Commission's internal control system, to assess from the point of view of sound financial management the work of the departments responsible for preparing the clearance decisions and may, for this purpose accompany them on their audit missions in the same capacity as "officials appointed" by the Commission (Article 9 (2) of Regulation (EEC) No 729/70).

(b) However, in view of the length of the delays in clearance, the Financial Controller found, throughout the initial period of operation of the Fund, that he was only called upon to give his approval, after the decisions to grant advances had been taken, on the accounting operations represented by detailed commitment and charging up as payment, as given in the revenue and expenditure account. The Commission therefore decided⁽¹⁾ that the Financial Controller should place himself in a position to assess the operation of the management and control procedures which, in the Member States, form the basis for the declarations of expenditure. The Financial Controller has therefore been able to organize his own audits in the Member States, under the general authority conferred on officials appointed by the Commission, by carrying out autonomous "selective inspections", independently of the cooperation of his staff, with those of the authorizing officer at the time of the clearance audits (points 2.13 (a) and 2.28 (a)). It is clear that this step, which constitutes a change in the original role of the Financial Controller, can only be justified by the shortcomings of the management departments of the EAGGF Guarantee Section.

(c) This extension of the on-the-spot audits of the Financial Controller, whatever the quality of the audits performed, has certain disadvantages in practice.

(i) It leads to the proliferation of audits in the Member States. The departments audited do not fully understand the different roles of the bodies carrying out the

audits (clearance audits, audits on fraud and irregularities, audits by the Financial Controller, audits by the Court of Auditors), it all being conceived as one single form of audit, namely Community audit.

(ii) It results in the work of the Financial Controller taking place prior to that of the departments responsible for clearance, in the risk of insufficient coordination between departments whose operations are normally governed by the principle of separation of powers and therefore, inevitably, in confusion between the respective responsibilities of the authorizing officer and the Financial Controller.

(iii) This effect always works in favour of the Member State audited: if the Financial Controller has made any criticism, the authorizing officer will normally have to reiterate that criticism and include it in his proposal for a decision; if the Financial Controller has not made any criticism on the other hand, the authorizing officer would find it difficult to do so afterwards without running the risk of being challenged immediately.

In any case, experience has shown that intervention by the Financial Controller has up to now neither speeded up nor consolidated the clearance decisions.

2.29. Accentuation of contradictions between the Community and national systems of audit

The delay in clearance magnifies the problems that the audit of operations financed by the EAGGF Guarantee Section in the Member States causes for the national external audit bodies.

Although the situations vary according to the external audit systems in the Member States, the result is an accentuation of the uncertain position of these bodies in the audit of the EAGGF Guarantee Section.

In their capacity as external audit authorities these bodies will, of necessity, audit the accounts of the EAGGF Guarantee Section in the Member States independently. Whether they conduct a pre-payment control — which tends to be increasingly rare, since the supreme audit bodies of the Member States are becoming less involved in day-to-day management — or a subsequent audit (the majority of cases), the supreme audit authorities have to decide upon the legality and regularity of the operations before the Commission departments.

⁽¹⁾ Decision of 3 October 1973.

In these circumstances, besides the fact that the Commission departments inevitably will sometimes find solutions which are different to those of the national audit bodies, the national external audit body will not be in a position to judge the management in the Member State in a finalized form. Those external bodies which plan their work according to the audits already carried out, in order to avoid duplication of work, will not be able to concentrate their activities on sectors left aside by the clearance departments.

Finally, it would appear that, although they take place after the national external audits, until recently the clearance audits took no account of all this audit activity (purpose, field, methods and results).

2.30. Effect on the audit of the Court of Auditors of the European Communities

From the point of view of the Court of Auditors of the European Communities, the present situation has a large number of disadvantages.

(a) *More burdensome working methods*

The Court of Auditors has from the outset taken the view that the clearance procedure and decisions are a key element in the system of management and control of the EAGGF Guarantee Section.

For reasons of economy, the Court adopted the systems audit as its working method, in the expectation

that giving priority to assessment of the Commission's own system of audit and control would soon enable it to acquire an understanding of how the EAGGF Guarantee Section is managed and monitored, both within the Commission and in the Member States.

However, in view of the failings of the Commission in the field of clearance, the Court of Auditors has found itself obliged to increase its own on-the-spot audits in the Member States.

(b) *Scope of its audits reduced*

The delays and lack of finality in the clearance decisions mean that the Court of Auditors is faced with accounts from which no final conclusion can be drawn on the realities of Community financing for past financial years.

The Court has, under the discharge procedure, the duty of providing an assessment of the administrative, financial and accounting follow-up to the clearance decisions. It has until now only been able to do so for the earlier years (1971 to 1975), representing a total of 15 000 million EUA. However, under the discharge procedure for the financial year 1981, if the statutory timetable had been respected, it should have been able to provide an assessment of the follow-up given to clearance for the financial years up to and including 1980 (i.e. covering an amount of about 58 000 million EUA) (points 1.2 and 2.26).

PART II

THE REFORM OF CLEARANCE

THE OPINION OF THE COURT ON THE THREE-YEARLY EXAMINATION OF THE FINANCIAL REGULATION

3.1. Encouragement to respect the statutory timetable

When the Court was consulted, under Article 209 of the Treaty, on the three-yearly examination of the Financial Regulation of 21 December 1977, it considered that a regulation that laid down the procedure for the implementation of the budget and the rendering and inspection of the accounts would be the proper context for advising a means of restoring the clearance procedure to its original function.

The opinion which the Court delivered on 21 May 1981⁽¹⁾ advocated, in respect of clearance, a consolidation within the general Financial Regulation of the Communities of the provisions on time limits for submission of the annual report by the Member States (31 March $n+1$) and for adoption of clearance decisions (31 December $n+1$) (see Regulations (EEC) No 729/70 and (EEC)

(1) OJ No C 232, 11.9.1981, p. 1 (Annex VII hereto).

No 1723/72, and addition to the statutory timetable of machinery to encourage its observance).

The latter comprises firstly the substitution of certain existing records for the summary accounts of

the Member States, where the latter do not respect the deadline of 31 March, and secondly a deemed adoption of clearance decisions in the event of the Commission's failure to observe the deadline of 31 December. The details of the proposed provisions are given in Annex VII.

CONDITIONS FOR IMPROVEMENT OF THE CLEARANCE PROCEDURE

3.2. Three main conditions

In view of all that has been stated above it would appear that, without a radical change in its practices, the Commission will never be in a position to carry out a clearance of the accounts of the Member States that would create satisfactory conditions for the management and control of the EAGGF Guarantee Section. The Court would therefore like to draw attention to the following ancillary improvements needed to complete the process, if the clearance of the accounts procedure is to function again as originally intended.

These improvements should form part of an initiative to rid the clearance procedure of its linearity, to bring forward certain stages and to eliminate at source the main obstacles which clearance comes up against.

In this regard, three main proposals, forming a logical whole, may be made with a view to:

- facilitating the preparation of clearance by improving the memorandum,
- accelerating and rationalizing performance of the on-the-spot visits,
- settling problems of interpretation at the management stage.

FACILITATE THE PREPARATION OF CLEARANCE

3.3. Updating of the memorandum prior to management

The process of updating the memorandum is the first cause of delay in the clearance procedure. In view of the material contained in this document there would appear to be no obstacle to it being updated prior to management.

(a) This updating would take two forms.

- (i) Every year, about three months prior to the commencement of the management stage, the Member States should be in possession of a memorandum which has been systematically updated. A regular general revision of this nature would avoid the retention of obsolete specifications in the memorandum and would let the Member States know in good time what data should be assembled during the coming management period for the purpose of clearance.
- (ii) In addition, the memorandum should be updated *ad hoc* prior to the entry into force of a new statutory rule or of an amendment to an existing rule. It should be possible to update the following points in the memorandum at the same time as preparing the new legislation:
 - establishment of tables of information to be provided for clearance,
 - means of presenting this information,
 - possibly, means of checking and settling applications for aid.

The draft updating of the memorandum should accompany the proposal for a regulation⁽¹⁾. After adoption of the regulation, the draft updating would become final through a procedure under which the comments of the departments responsible for implementation of the regulations in the Member States are considered.

⁽¹⁾ By analogy with the procedure for the present "fiche financière", which is attached to every proposal for a regulation, in order to evaluate the effect on the budget in the medium term.

- (b) Such a procedure, besides eliminating an initial cause of delay in the process of clearance, would allow those responsible for adopting Community legislation to evaluate correctly the constraints of management and control which they impose upon the paying agencies and the clearance departments of the Commission. This would undoubtedly provide a certain rationalization of decisions and thus prevent the adoption of over-complicated regulations, the supervision of which would be beyond the capacity of normal administration.

Moreover, being published at the same time as Community regulations, the updating would be available from the moment those regulations begin to apply, and the Member States would be able from the outset to know how to organize their own control and audit and how to present their payments files (which supporting documents to include) and also what information to collect for the summary accounts that they are to submit.

- (c) The combination of these two systems of updating, making the memorandum a real management guide and no longer merely a framework for presenting the accounts, would facilitate preparation of the accounts and the summary of information attached (quantities placed in intervention, rates, varieties concerned, etc.), which would be carried out in the course of management. The accounts could then be submitted within the statutory periods (by 31 March of the year following the financial year).

3.4. Adaptation of the memorandum to a restored clearance procedure

One of the difficulties encountered by the Member States with regard to submission by 31 March (n+1) of the summary annual data is the degree of detail required in the statistical information and certain accounting data requested by the Commission in support of purely financial information.

- (a) Without denying the usefulness of detailed statistical information for management and control, the impression is gained that so much

detail is required by the Commission because of the late execution of on-the-spot audits and of the organization of an extensive documentary audit beforehand. It would seem possible to simplify the content of the memorandum, strictly limiting the information required to that necessary for management and control, which in no way lessens the need for a fairly detailed breakdown in the accounts.

- (b) The latter is linked to the Community budgetary nomenclature and reflects the need for a certain clarity in the accounts so that the implementation of the Community budget can be followed as closely as possible by individual intervention measure. From an accounting point of view, however, it is important for the Member States to be aware, before the beginning of the management stage, of the accounting framework in which the financial information should be presented.

RATIONALIZE THE AUDIT TECHNIQUE

3.5. Ensure continuous monitoring

A second cause of delay is the fact that the on-the-spot audits of the authorizing officer are commenced at a late stage due to the Commission's custom of only beginning its on-the-spot audits after receipt of the annual accounts of the Member States.

However, there is nothing in the current legislation to prevent an early start to the audit visits in the Member States. On the contrary, the strict statutory timetable, and the very nature of the clearance audit, favour an audit following as soon as possible upon the decentralized act of management, which it is supposed to check. In practical terms, it would seem possible and desirable to initiate the clearance audits at the very beginning of the financial year for which the accounts are to be cleared.

3.6. Change the nature of the audits accordingly

- (a) If it were to perform the on-the-spot audits in the course of management, the Commission would be able to concern itself more with the EAGGF Guarantee Section systems of management and control in the Member States, parti-

cularly as regards the application of new regulations, and indeed it would have an interest in doing so.

- (b) Sampling would no longer be a means of making a rule-of-thumb check on a small percentage of Community expenditure, but employed methodically, could form a normal aid to a sound systems audit, a tool for ensuring that practice conforms with the system in force and for assessing the consequences of the weaknesses discovered.
- (c) The documentary audit in Brussels would remain important, but it would be considered as an ancillary audit, a cross-check, and not as a prior condition for the on-the-spot audits.
- (d) Since the problems of reconciliation of accounts should also not be ignored, it would probably be necessary to supplement the first series of audit visits with visits following the submission of the summary annual accounts by the Member States. During the latter visits, the Commission departments, while auditing the system of management for the accounts of the following year, would make the final reconciliation of accounts and thus be able to relate the initial on-the-spot findings to the annual accounts of the paying agencies and the summary accounts sent in by 31 March to the Commission.

3.7. Overcome the problems of limited audit resources

- (a) A systems audit should imply a sound knowledge of all the systems concerned and of each of those systems in its entirety (management and control, including on-the-spot audit at undertakings). Such an approach also implies the ability to test each stage of the process, if necessary.

However, the complexity of Community management should not be underestimated. In view of the number of paying agencies involved in the EAGGF Guarantee Section management⁽¹⁾, the use made both of their own

departments and those of other administrations when performing on-the-spot audits, the multiplicity of regulations in application and the various possible combinations of the above, there are probably a thousand or more management and control procedures⁽²⁾ involved in the management of the EAGGF Guarantee Section.

- (b) In this type of audit, sampling is very important, and indeed the basis for the conclusions at which a systems audit may arrive.

The technique of auditing on the basis of a sample is a useful instrument for assessing the operation of a system and the management in general, but when the use of a sample is in part responsible for the imposition of a financial penalty, extending the findings to all similar operations may turn out to be a delicate task.

The Commission has already had considerable difficulties with this problem in its clearance operations. Until now, however, the size of the sample, the absence of any thorough analysis of the conditions in which the management or control in question operates, and the extreme sensitivity of the bodies concerned, have formed no less an obstacle to using the results where they gave rise to suspicion of a weakness in the management or control of Community regulations.

These faults in the Commission's procedure led to conclusions by way of rough generalization, a clear source of dispute.

- (c) If it is desired that the Commission effectively monitor the application of the regulations in the Member States, and if it is considered that this should be done within the clearance procedure, it is inevitable that recourse will have to be made to sampling. However, the methods followed should be known in advance by the body audited and the mode of their application, as far as possible, agreed with the same.

⁽¹⁾ According to the Commission, there are at present 33 (Annexes II and III to COM VI/595/82).

⁽²⁾ As an example, the Court of Auditors was able to record, for a single intervention measure, in one Member State, three main systems of management and control which were completely different, and which varied according to the origin of the product placed in intervention and the methods of intervention adopted.

- (d) In the event that the audited body contests the result of an audit by sampling, the Commission would have some room for compromise, allowing it either to accept the arguments of the bodies audited or to extend its checks by increasing the number of so-called "substantive" tests. In any case, where the Commission felt that it was in a position to generalize its findings, it would always be able to do so, and with duly substantiated reasons, which would add to the ability of the Court of Justice to judge the merits of the case.

INTERPRET THE REGULATIONS EARLY IN THE PROCESS

3.8. Resolving problems of interpretation

Under the current system, clearance too often imposes a sanction in retrospect on incorrect or differing interpretations of the legislation. The problems of interpretation thus raised are very difficult to resolve under the clearance procedure since they occur in a situation "poisoned" by the fact that the contested interpretation has sometimes prevailed in the Member State for several years.

3.9. Efforts by the Commission

The Commission, which is aware of this difficulty and the fact that in certain cases the problem of interpretation had been felt at an early stage by the Member State, at the time when the latter had to apply the regulations concerned, in 1978 proposed (Doc. VI 241/77 rev. 1 of 3 February 1978) a procedure designed to settle the problem by consultation with the Commission. Under this procedure, an intervention body which encounters any difficulty in interpretation informs the Commission thereof and the latter undertakes to solve it within a certain period or possibly after a reminder from the intervention body, failing which the interpretation of that body prevails and cannot be contested at the time of clearance. Although this procedure

does represent some progress, it has nevertheless not always operated satisfactorily. In practice, the Commission has often replied either by paraphrasing the existing regulations, which does not solve the Member State's problem, or by presenting additional requests for information, which allows it to suspend indefinitely the period in which it is bound to reply, without settling the problem of interpretation raised. Sometimes the Member State has failed to propose its own interpretation.

3.10. Proposal by the Court: an *ad hoc* procedure

The Court wonders whether it would not be possible to reconstitute this procedure as part of the Commission's clearance responsibilities in order to ensure some security for the Member States in their management.

This procedure, if effected rapidly by the Commission, (which would inform, as necessary, all the Member States represented in the EAGGF Committee) should result in all cases in a clear determination of where the financial burden will fall at clearance:

- (i) on the Member State, if the Commission has issued its opinion within the time limit and the Member State continues to maintain a different view;
- (ii) on the Community, if the Commission has not acted within the prescribed time limit.

Such a procedure would be a feature of budgetary management designed to facilitate and accelerate the clearance decision, and clearly could not prejudice judicial review of the decision itself, on application by the Member States after clearance. However, it would undoubtedly help to discourage litigation or, where it occurs nonetheless, may throw some light on the dispute that assists in resolving it.

FEASIBILITY OF RESTORING THE CLEARANCE SYSTEM TO ITS ORIGINAL FUNCTION

3.11. Coordinate the Commission's resources

(a) Staff resources

A frequent argument put forward to justify the

present situation is the lack of staff resources at the Commission (¹).

(¹) Point 2.11 of the replies of the Commission to the annual reports on the financial years 1977 and 1979 (OJ No C 313, 30.12.1978, p. 27); OJ No C 342, 31.12.1980, p. 263 (point 4.48).

The Court considers that, with some internal reorganization, the Commission would be able to deploy the staff necessary to restore the clearance procedure. In view of the Court's remarks on the intervention of the Financial Controller of the Commission⁽¹⁾, an initial solution could be to rationalize the use of the Commission's various audit and control resources.

(b) Internal coordination procedures

One of the main problems raised by the present situation revolves around the Commission's capacity to provide fast, clear and reliable interpretations of Community regulations. It would appear necessary for the Commission to be in a position to act quickly and responsibly in this field as well. It needs, in particular, to develop an internal coordination procedure so that its various departments (EAGGF, management of markets, agricultural legislation, financial control, legal service) can assist it in adopting rapid decisions on interpretation as well as final clearance decisions.

3.12. Resolve the Member States' problems in submitting the summary accounts at 31 March

The main problem for the Member States that is raised by the terms of the opinion given by the Court on 21 May 1981 is the need to submit the summary annual information by 31 March of year $n + 1$.

On analysis it appears that their difficulty has been due largely to the late updating of the memoran-

⁽¹⁾ Point 2.28.

dum, problems of administrative organization in certain Member States, and the complexity of entering second category expenditure (purchases, warehousing, sale of public stocks) in the accounts.

The main difficulty would in practice remain the third. A reform of the accounting system for second category expenditure could contribute to solving this, particularly if determination of the fixed amounts used in this type of accounting could take place before the end of the financial year to which they apply. It appears that the Commission has now begun studies for this purpose. It would above all be advisable for the Member States to recognize that establishing the summary accounts and information relating to this expenditure is of the utmost priority.

3.13. Ensure that the system maintains the quality and the reliability of the accounts

Another problem raised by the terms of the opinion delivered by the Court is the risks which would have to be accepted in the Commission being able, in the absence of all the annual summary accounts, to work on the basis of the information in its possession at 31 March of year $n + 1$ (i.e. whatever annual summary accounts are available and, otherwise, all the monthly declarations).

This risk must not be overestimated. The expenditure declared monthly is, in all the Member States, drawn directly from public accounts which are strictly checked and on principle not open to alteration, other than by way of clearly identifiable corrections.

CONCLUSIONS

4.1. In the current system of financing the common agricultural policy, which is characterized by very marked decentralization, the clearance procedure and decisions have emerged as essential factors in giving the management of the EAGGF Guarantee Section its unity and its quality.

4.2. This report, however, demonstrates the failure of these clearance procedures in the period of more than 10 years that Council Regulation (EEC) No 729/70 has been in force..

This failure concerns all the parties involved in Community management. The Commission, which has not been able to equip itself with the necessary technical and human resources to accomplish its responsibilities; the authority responsible for discharge, which has agreed to grant discharge on accounts which remain for the most part of uncertain value in the absence of clearance decisions; the Member States, which have not always proved as diligent as they might be in the performance of their own responsibilities — all are responsible to varying degrees for the deterioration of the system to its present state.

4.3. However, this failure is also detrimental to the interests of the same parties. The Commission has not been able to show that it is an institution fully responsible for its financial management. The institutions responsible for authorizing the budget and granting budgetary discharge have not had the best possible information available in assessing the estimates of expenditure and have not been able to satisfy themselves that the policies which they had intended to lay down in adopting the budget have been properly implemented. As far as the Member States are concerned, they have had to manage the EAGGF Guarantee Section expenditure on the spot, without the advantage of rapid, accurate and certain knowledge of the permissible limits of their actions.

4.4. It would therefore be in the general interest to ensure that the clearance procedure is respected. Much more than the financial impact represented by each series of clearance decisions (for the five financial years cleared, total corrections represented no more than about 225 million EUA), it is the very quality of EAGGF Guarantee Section financial management which is at issue here, as this report has shown. The need to respect the clearance procedure therefore goes far beyond the special concerns of control and audit or of the supervisory role of the Parliament.

4.5. The reform of the clearance procedure can therefore only result from a joint effort.

In the various Community institutions where the powers of initiation, consultation and decision are exercised, the success or failure of this process of reform is the concern of every official responsible for EAGGF Guarantee Section management. The same applies to those responsible for the day-to-day administration of the Fund in the Member States.

4.6. In its opinion of 21 May 1981, the Court of Auditors wished to strengthen the statutory framework within which the clearance procedure operates by linking it closely with the Financial Regulation.

The proposals made in this report have the advantage of remaining within the existing statutory framework. They must be taken for what they are: a logical whole forming a basis for discussion as to how to change the present state of affairs.

It is clear that the sole aim of these proposals is to strengthen the control necessary for the sound use of Community funds by the Commission, which is responsible for their use before the Community budgetary authorities. However, the result will depend, above all (assuming the system of management of the EAGGF Guarantee Section remains unchanged in principle), on the will to exercise this responsibility.

4.7. Assuming that measures are adopted to reform the financial management of the EAGGF Guarantee Section for the future, the fate of the financial years closed but not yet cleared (1976 to 1981) and of the current year (1982) would remain to be settled.

An immediate solution would, of course, be to try to make up the delay using the current methods. However, experience has shown that hopes of doing so have constantly been disappointed and it is to be feared that such an attempt would have a prejudicial effect on future management as well.

In these circumstances, an alternative solution might appear preferable. It would consist firstly in clearing the financial years closed but not yet cleared after checking only that the various sets of accounts tally, and secondly, in testing the progressive application of the new system on the current financial year.

This choice is the Commission's responsibility. The Court reserves the right to give its opinion on the guarantees which would lead the Court to approve the procedure actually followed.

The text of the preceding observations was adopted by the Court of Auditors at its meeting of 12 October 1982.

Done at Luxembourg, 4 November 1982.

For the Court of Auditors

Pierre LELONG

President

LIST OF ANNEXES

	Page
Annex I : Summary of financial information (all Member States)	31
Annex II : Summary of financial information (by Member State)	32
Annex IIa : References to clearance decisions	34
Annex III : Statutory timetable for budgetary management and clearance ...	35
Annex IV : Text of Article 5 of Regulation (EEC) No 729/70 and Articles 1 and 8 of Regulation (EEC) No 1723/72	36
Annex V : State of delay in clearance	37
Annex VI : Diagram of working procedure of the Commission	38
Annex VII : The procedure for clearance of the accounts: extract from an opinion of the Court delivered on 21 May 1981	39

ANNEX I

Summary of financial information for all the Member States

(EUA millions)

Financial year	Amounts declared by the Member States	Amounts refused on clearance	Amounts finally checked and chargeable	Column 3 Column 1
	1	2	3	
EUR-6				
1971	1 538-2	} - 46-620 (1)	3 910-88	
1972	2 419-3			
EUR-9				
1973	3 677-1	} - 18-013 (OJ No C 342, 31. 12. 1980, p. 64)	3 659-087	
1974	3 094-8			
1975	4 522-8	} - 160-961 (3)	7 456-639	
1976	5 587-1			
1977	6 830-4	—	—	
1978	8 672-7	—	—	
1979	10 644-1 (OJ No C 342, 31. 12. 1980, p. 50)	—	—	
1980	11 098-7 (OJ No C 344, 31. 12. 1981, p. 44)	—	—	
1981	11 140-3 (Comment of 15 July 1982)	—	—	
Total	69 225-2	- 225-594 (2)	15 026-606	0-258

(1) The figure of -46-620 million EUA was obtained from information relating to the 1971/72 clearance given in the 1975 revenue and expenditure account (-61-170 million u.a.) converted at the EUA rate (1-045281). The amount thus obtained (-58-520 million EUA) was increased by the amount given in the 1979 revenue and expenditure account, which represents corrections made to the accounts of the Federal Republic of Germany following decisions of the Court of Justice (11-9 million EUA).

(2) Of which 60 % finally refused.

(3) Annexes to the draft clearance decision of 1974/75 (at rates of 18 September 1981).

ANNEX II

Clearance decisions

Summary of financial information on Member States

Financial years cleared	Belgium (Bfrs)	Netherlands (Fl)	Denmark (Dkr)	Germany (DM) ⁽¹⁾
1971 (2 December 1975)				
recognized as chargeable	4 967 726 330	951 043 115		1 394 045 738-88
finally refused	0 % { -6 761	0-1 % { -1 615 308		2 % { -27 862 138-77
provisionally refused	0	0		(2)(4) - 885 701
				(skimmed-milk powder, Italy)
non-quantified reservation	0	0		0
1972 (2 December 1975)				
recognized as chargeable	6 397 812 406	1 227 698 473		1 786 713 621
finally refused	0-03 % { -198 241	0 % { -93 732		0-9 % { -16 556 500
provisionally refused	-1 950 000 (skimmed-milk powder, Italy)	0		(3)
non-quantified reservation	0	0		0
1973 (12 October 1979)				
recognized as chargeable	9 617 084 437	1 886 436 768	2 218 602 674	2 470 986 346
finally refused	0-6 % { -50 439 735	1-2 % { -16 321 198	0 % { -213 229	0-3 % { -9 192 762
provisionally refused	-13 513 134 (stock butter)	-8 198 200 (cereal refunds)	0	0
non-quantified reservation	(milk products, fruit and vegetables)	0	0	0
1974 (16 November 1981)				
recognized as chargeable	7 112 791 259	1 606 852 382	2 150 697 122	2 101 350 638
finally refused	4 % { -301 486 060	1-3 % { -22 131 015	0 % { -1 599 974	0-8 % { -17 681 510
provisionally refused	0	0 % { -1 602 539 (1976 at the latest)	0	94 862
non-quantified reservation	(milk products)	0	0	0
previous reservation withdrawn	+10 313 037 (1973)	+5 224 646 = -2 973 554 (1973) (1976 at the latest)	—	0
1975 (16 November 1981)				
recognized as chargeable	8 789 084 723	1 713 598 994	2 334 379 676	2 160 164 617
finally refused	0-4 % { -40 037 299	0 % { -1 006 666	0 % { -1 050 396	1-5 % { -32 894 745
provisionally refused	0 % { -4 593 750 (stock butter)	0	0	0
non-quantified reservation	(milk products)	0	0	0
previous reservation withdrawn	0	0	—	0

(1) The accounts of the Federal Republic of Germany were subject to the following changes, following decisions of the Court of Justice.

(2) + 17 930 880 (Decision 1979: 886).

(3) + 12 051 258 (Decision 1979: 886).

(4) + 307 833 (Decision 1978: 710).

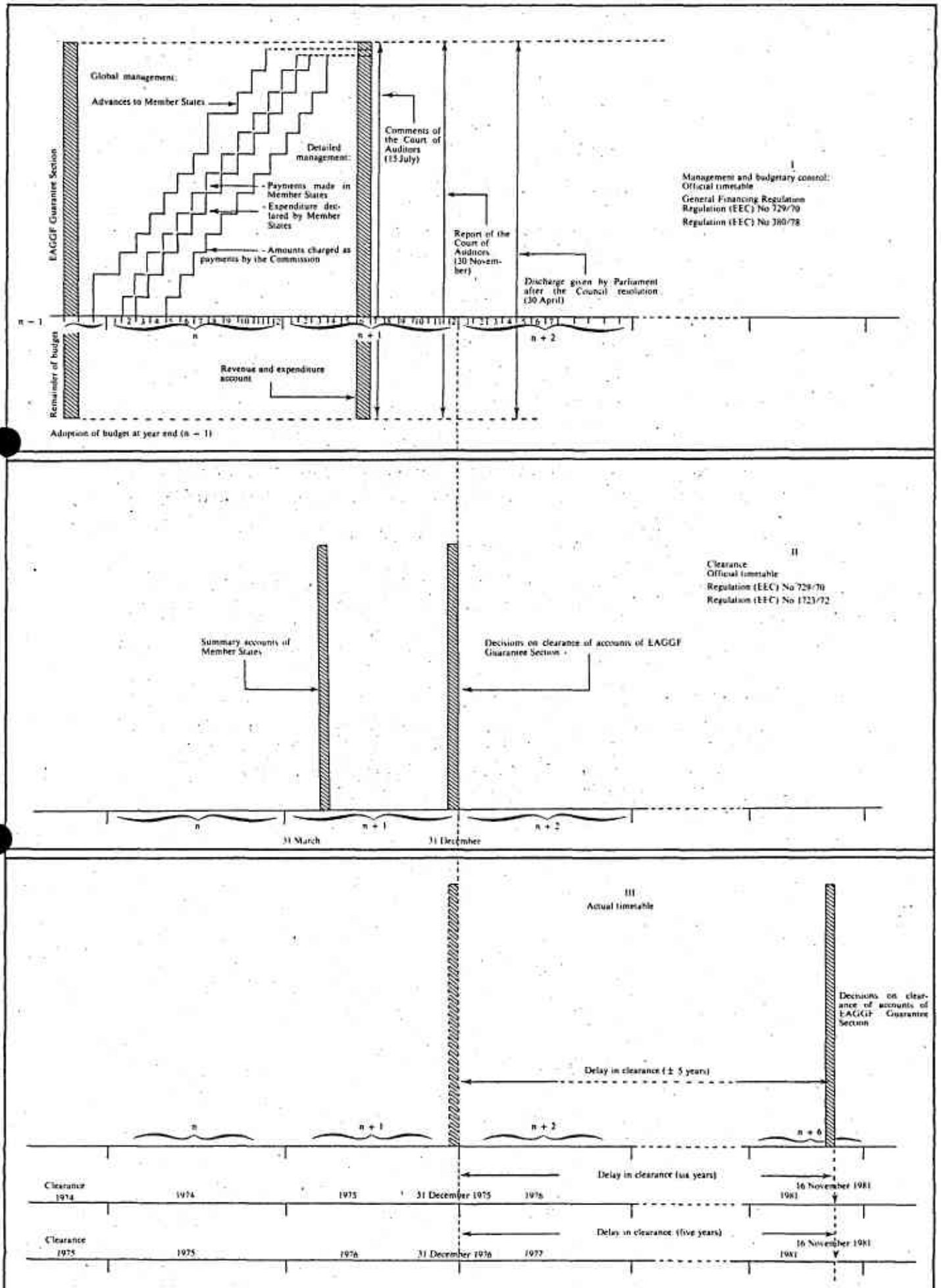
France (FF)	Ireland (£ IrI)	Italy (Lit)	Luxembourg (Lfrs)	United Kingdom (£)
3 326 922 715 0.3 % { -2 488 651 -7 843 976 (skimmed-milk powder, Italy) 0		106 615 809 225 5.7 % { -6 094 531 460 0 0	71 134 396 0 0 0	
4 992 738 940 6 % { -82 425 670 - 1 920 520 (skimmed-milk powder, Italy) 0		334 783 371 018 2.4 % { -8 256 341 003 0 0	94 852 293 0 0 0	
6 032 587 162 2.1 % { -129 327 122 0 (fruit and vegetables)	37 027 656 0 % { -806 0 0	364 069 285 898 0.4 % { -1 359 433 433 - 92 772 815 (re-storage wine) (fruit and vegetables)	273 157 129 0 % { -48 009 0 0	62 982 080 0.6 % { -396 368 0 0
3 793 004 893 2.3 % -90 162 814 0.1 % - 2 057 132 (stock butter, 1976 at the latest) (fruit and vegetables) 0	75 621 237 0.6 % { -429 007 0 0	320 154 647 151 0.4 % { -1 162 663 324 0 (fruit and vegetables) +61 228 460 (1973)	98 804 374 0 % { -1 124 0 0	110 635 044 1.3 % { -935 861 -534 935 0
5 877 407 433 10.7 % -633 761 320 8.5 % -503 779 715 (distilled wine, 1976 at the latest) (fruit and vegetables) 0	98 577 414 0.8 % { -750 156 0 0	569 794 296 041 1.7 % -9 819 532 338 0 % - 229 362 596 (fruit and vegetables) 0	271 799 272 0 0 0	338 970 557 0.2 % { -432 316 -477 993 0

*ANNEX IIa***References to clearance decisions in the *Official Journal of the European Communities***

Financial years 1971 and 1972:	12 Decisions of 2 December 1975 (OJ No L 27, 2. 2. 1976) Amending Decision of 28 July 1978 (OJ No L 238, 30. 8. 1978) Two amending Decisions of 12 October 1979 (OJ No L 272, 30. 10 1979)
Financial year 1973:	Nine Decisions of 12 October 1979 (OJ No L 278, 7. 11. 1979)
Financial years 1974 and 1975:	18 Decisions of 16 November 1981 (OJ No L 375, 30. 12. 1981)

ANNEX III

Budget timetable and clearance timetable



*ANNEX IV**Article 5 of Regulation (EEC) No 729/70*

1. Member States shall . . . transmit to the Commission the . . . :
 - (b) annual accounts, accompanied by the documents required for clearance of the accounts.
2. The Commission, after consulting the Fund Committee . . . :
 - (b) shall, before the end of the year [following a given financial year], on the basis of the documents referred to in paragraph 1 (b), clear the accounts of the authorities and bodies.

Article 1 of Regulation (EEC) No 1723/72

1. For the making up of accounts . . . , Member States shall forward to the Commission:
 - (a) the annual summaries of accounts and the reports drawn up by each authority or body . . . ;
 - (b) all reports or parts of reports drawn up by the competent auditing or supervisory authorities . . . ;
 - (c) a summary of the expenditure of all authorities and bodies . . .
2. The documents referred to in paragraph 1 . . . must reach the Commission not later than 31 March of the year following [the financial year to be cleared] . . .

Article 8 of Regulation (EEC) No 1723/72

The decision to make up the accounts . . . shall cover:

- (a) determination of the amount of expenditure incurred in each Member State during the year in question, recognized as chargeable to the EAGGF Guarantee Section;
- (b) determination of the amount of the financial resources still available in each Member State at the end of the year in question, representing the difference between total Community financial resources available at the beginning of the year or advanced during the year and the amount referred to under (a).

ANNEX V

State of clearance work and estimates
(comparison between 1980/81 and 1982)

Clearance of accounts of financial years	Position in	Final dates of stages of audit			Estimated date of closure (decision)	Estimated delay
		End of preparatory work : on-the-spot inspection	Correspondence and discussions with the Member States	Summary document		
1974/75	1980	<i>July 1979</i>	First quarter 1980 (*)	End 1980 (*)	End 1980 (*)	Five and four years (*)
	1981	<i>July 1979</i>	<i>End 1980 — beginning 1981</i>	<i>15 April 1981</i>	<i>16 November 1981</i>	<i>Six and five years</i>
	1982	—	—	—	—	—
1976/77	1980	End 1980 (*)	First quarter 1981 (*)	Second quarter 1981 (*)	End 1981 (*)	Four and three years (*)
	1981	End 1980 (*)	First and second quarters 1981 (*)	Second half 1981 (*)	1982 (*)	Five and four years (*)
	1982	<i>Beginning 1981</i>	<i>May 1982</i>	<i>7 July 1982</i>	Second half 1982 (*)	Five and four years (*)
1978/79	1980	Second quarter 1981 (*)	End 1981 (*)	Second quarter 1982 (*)	End 1982 (*)	Three and two years (*)
	1981	End 1981 (*)	Beginning 1982 (*)	Second half 1982 (*)	1983 (*)	Four and three years (*)
	1982	<i>April 1982</i>	Second and third quarters 1982 (*)	End 1982 (*)	Beginning 1983 (*)	Four and three years (*)
1980	1980	—	—	—	—	—
	1981	End 1982 (*)	Not planned	Not planned	Not planned	Not planned
	1982	(Start) (*) End 1982 (1)	Not planned	Not planned	Not planned	Not planned
1981	1980	—	—	—	—	—
	1981	—	—	—	—	—
	1982	Accounts to be sent by June 1982 (*)	Not planned	Not planned	Not planned	Not planned

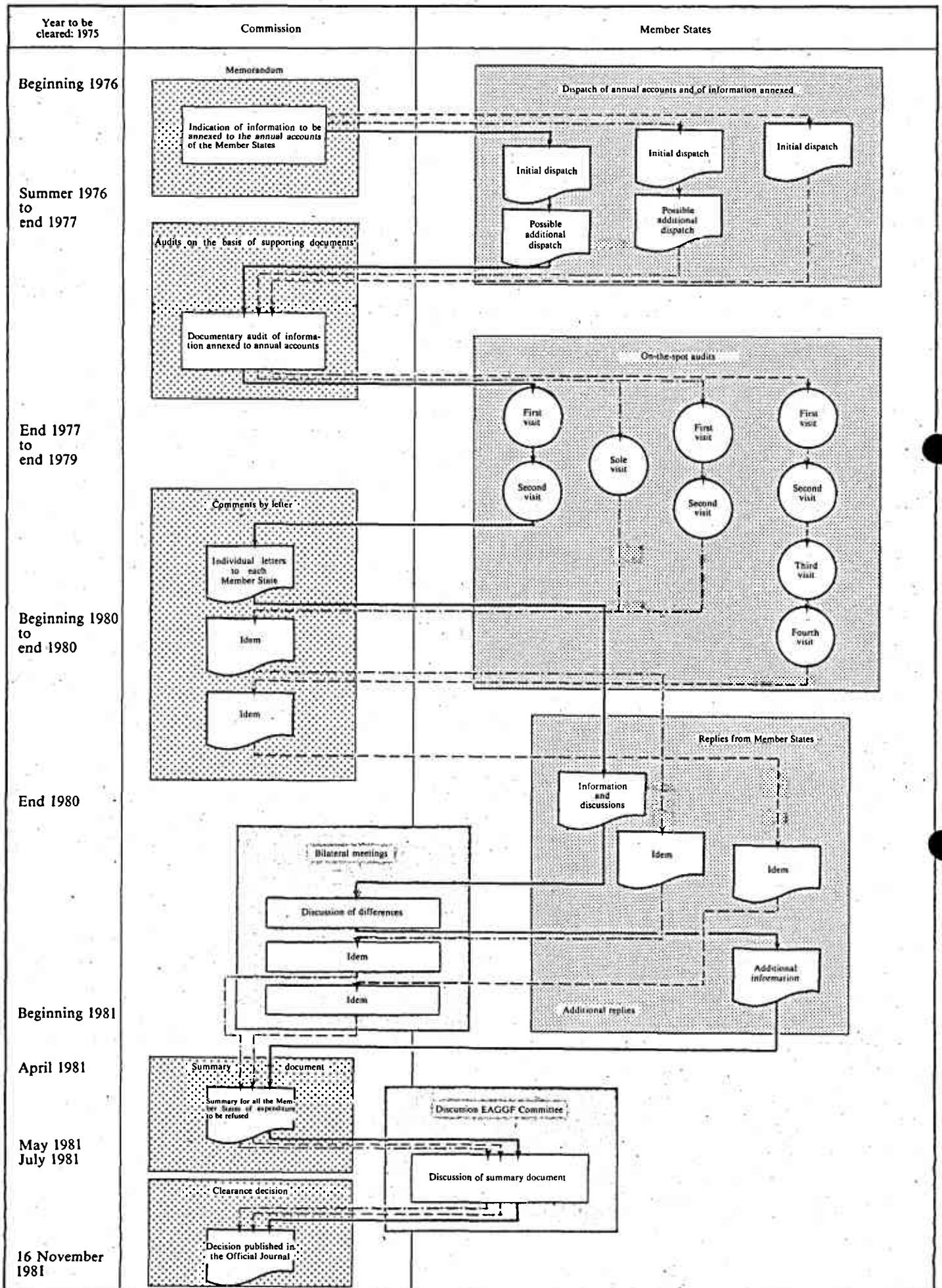
(1) At the beginning of 1982, one Member State, Italy, had still not sent in a full set of its 1980 annual accounts.

NB:

The sign (*) means the Commission's estimates or corrected estimates. Periods expressed in italics relate to actual findings.

ANNEX VI

Diagram of clearance procedure



ANNEX VII

Present text	Commission text	Amendments proposed by the Court	Remarks
<i>Article 98</i> Expenditure shall be taken into account for a financial year on the basis of payments made up to 31 December by the authorities and bodies referred to in Article 4 of Regulation (EEC) No 729/70, provided that their commitment and authorization have reached the accounting officer not later than 31 March of the following year.	<i>Article 98</i> 1. Expenditure shall be taken into account for a financial year on the basis of payments made up to 31 December by the authorities and bodies referred to in Article 4 of Regulation (EEC) No 729/70, provided that their commitment and authorization have reached the accounting officer not later than 28 February of the following year. 2. Any adjustments in the expenditure declared which may be authorized separately from the clearance of the accounts, under the implementing provisions adopted pursuant in Article 5 (3) of Regulation (EEC) No 729/70, may be charged to the accounts of the following year.	In paragraph 1 replace '28 February' by '31 March'. Delete paragraph 2 and replace it by the following: 2. (a) Not later than 31 March, the Member States shall also send to the Commission, together with the necessary documentation, summary annual accounts for the financial year ended, amended where necessary, for the purpose of clearance of the accounts as provided for in Article 5 (2) of Regulation (EEC) No 729/70. The object of clearance of the accounts shall be: (i) to determine the amount of expenditure effected in each Member State during the financial year in question and acknowledged as being to the account of the EAGGF Guarantee Section and (ii) to determine the amount of the funds remaining available in the Member States. If the accounts of a paying agency of department have not reached the Commission by 31 March, the Commission shall clear the accounts of that agency or department solely on the basis of the financial statements referred to in Article 5 (1) (a) of Regulation (EEC) No 729/70 as described by implementing measures adopted in application of Article 5 (3) of the said Regulation.	Modification of the timetable (see paragraph 4.1 of the general observations). The grounds for this amendment are: — the need to have a revenue and expenditure account giving as true and fair a view as possible of the year's financial operations, — the advantage in including the timetable for clearance in the Financial Regulation and so ensuring that it fits in with the budget timetable, — the importance of speedy clearance in the budget procedure, — the fact that it is impossible to shorten the additional period granted to the EAGGF Guarantee Section in the present system (provisional nature of second category expenditure, i.e. concerning public stocks). All these points justify the inclusion in the Financial Regulation of provisions designed to encourage compliance with the timetable. These are monthly statements of expenditure.

ANNEX VII (cont'd)

Present text	Commission text	Amendments proposed by the Court	Remarks
		(b) On the basis of the abovementioned accounts or statements and of the findings of audits of documents carried out on-the-spot under the terms of Article 9 of Regulation (EEC) No 729/70, the Commission, after consulting the Fund Committee referred to in Article 13 of the Regulation, shall clear the accounts before the end of the year following the financial year in question. If the Commission has not cleared the accounts of a paying department or agency by that date, these accounts shall be deemed finally cleared on the basis of the financial statements submitted by the Member States. Transitional measures shall be adopted by way of Council Regulations in respect of the financial year not cleared on the date of entry into force of this Regulation. (c) The Commission shall publish the clearance decisions together with any relevant observations by Member States.	

ANNEX

COMMISSION

Replies to the comments made by the Court of Auditors in connection with the establishment of a special report of the Court of Auditors on the clearance of the EAGGF guarantee accounts

I. GENERAL

Role of the Commission as agency responsible for the management of the EAGGF

1. The Commission notes that for the first time the Court has adopted positions as to principle which are not reconcilable with those of the Commission.

The report tends to reduce the role of the Commission as agency responsible for the management of the EAGGF, and for the execution of the entire budget. But, in this fundamental role, the Commission, while conceding that there have been delays (largely due to the Member States, as the Court states), cannot give second-rank status to clearance operations, and even less rely entirely on national machinery, least of all national auditing arrangements.

Experience has made it very clear that large amounts of expenditure are not properly handled and that there are significant differences of management between the Member States; very thorough Community auditing, at the time of clearance, must be regarded as indispensable.

This does not affect the parallel tendency, which the Commission hopes to step up more and more, towards the development at the same time of systems controls and selective checks, so that checks can take place as soon as possible after the actual execution of expenditure.

2. In the context of the various auditing operations at all stages, the Commission feels that the Financial Controller, whose importance is also stressed by Parliament and whose independence of judgement is and must remain a major asset in the system, has an essential role to play if the Commission, at institutional level, is to discharge properly the management responsibilities incumbent upon it.

The Commission therefore cannot entertain the argument emerging from the Court's observations to the effect that the Financial Controller could not carry out on-the-spot audits to satisfy himself *inter alia* that the Community funds are being properly administered by the Member States (point 2.13 of the report).

Major importance of clearance

3. Among the official procedures in force, the clearance of accounts is a measure of crucial importance for the work of the EAGGF Guarantee Section. It is designed to enable those responsible to check that the funds placed at the disposal of the Member States in advance have in fact been used by the payment agencies in accordance with the regulations governing the common agricultural policy. As a result of the procedures followed, the Court has noted possible improvements and it is therefore appropriate that the Community institutions, especially the Commission, and the Member States should endeavour to work out changes enabling the difficulties arising to be coped with more effectively and the operations to be expedited. The Commission has already embarked upon this task. It will make full and appropriate use of the Court's suggestions in this connection.

On the other hand, the Commission is opposed to any arrangement for the tacit adoption of clearance decisions, and any approach consisting in carrying out summary verifications only in terms of continuity of accounts, as this could well in practice prove harmful to Community financial arrangements, whilst acting in favour of the States whose files require additional investigation having entailed the delays (point 4.7). The importance of Community auditing is highlighted by the fact that expenditure declared by the Member States for 1974 and 1975 totalling 161 million ECU was not accepted by the Community during the clearance.

The clearance is not a management instrument, an instrument for guiding EAGGF policies or an instrument of budgetary forecasting (points 2.4 to 2.5)

4. The Court gives the impression that the delays in clearance work have seriously impaired the administration of the EAGGF guarantee work.

The Commission cannot accept this.

The administration of the EAGGF guarantee work depends on a wide range of factors, including demand, prices (Community and world), exchange rates, currency changes (including the US dollar) and production (Community and world).

5. Nor can the clearance procedure constitute an instrument for re-orientating the agricultural policy; any attempt to give it such a context — were it possible — would amount to diverting it from the objective which the legislating authorities clearly stipulated, namely verifying that the appropriations have been used in compliance with Community regulations.

6. The Court claims that it has been made more difficult to establish the budget estimates. For the estimates, which are forecasts of the budgetary requirements in connection with the common agricultural policy, could not be influenced to any significant extent by the amounts queried under the clearance procedure. It must also be remembered that even if the amounts queried under clearance were relatively large, which has so far not been the case, the estimates obviously have to be established on the assumption that the Community regulations are being correctly implemented.

Clearance and discharge (points 2.6 to 2.8)

7. The Court's observation concerning the links between the discharge procedure and the EAGGF guarantee accounts clearance procedure is correct in procedural terms but two points must be made which limit its scope:

— in the best circumstances (EAGGF accounts clearance decision for year "n" in December of the year "n + 1"), the result of the clearance will be entered in the accounts for the year

"n + 1". This separation of the result of the clearance from the appropriations to which it relates necessarily reduces its political importance, if not its purely accounting value, in connection with the discharge,

— as long as teething troubles severely hampered efforts to achieve clearance within reasonable deadlines, the Commission had to choose between two approaches: either scrupulous compliance with clearance deadlines or proper weighting of the importance of Community finance. Only the interest of the Community in general and of the common agricultural policy in particular could be referred to as a guide.

Whilst delays are being made good, the Commission is of course prepared to inform the budgetary authority of the state of the clearance file.

The relative importance of the sums at issue (point 1.4)

8. The Court gives in the introduction to its report a picture of the problem (15 000 million ECU only are cleared out of 58 000 million ECU) which, because of extreme simplification, tends at the outset to give a deformed impression liable to prevent a proper general appraisal.

In this connection, there are two essential points:

- (a) the relative importance — given the large total of EAGGF guarantee appropriations — of the sums at issue;
- (b) completion of the auditing of expenditure until 1979 inclusive, will enable clearance decisions to be taken for:

— 1976 and 1977 before the end of 1982, and
— 1978 and 1979 in early 1983.

In other words, in the very near future, 48 000 million ECU will have been cleared;

- (c) the early years of operation of the Guarantee Section concerned, by the nature of things, relatively small amounts (1 538 million EUA in 1971, as against 11 098 million EUA in 1980), so that clearance of the early years could not possibly cover a large share of the total of 58 000 million ECU.

Lastly, it is hard to believe that the Court itself attaches to this question the seriousness which the

contrast of the figures would be bound to suggest, otherwise it would probably not have made the suggestion — answered elsewhere — “which would consist firstly in clearing all the financial years closed but not yet cleared (1976 to 1981) after a simple check that the various sets of accounts tally (as proposed in its original observations)”. The Court would clearly never have thought of this if it had not fully understood that the really contentious amounts are quite small.

Current work

9. The Commission also notes that the Court was aware of current work in the Commission, but the document makes no mention of this. For example, the document makes no observations on the Commission's work methods, referring in general to the selective check method used for making good the delays incurred.

10. Apart from certain other observations, the Commission indicates below:

- those changes suggested by the Court which the Commission has already implemented,
- the additional changes which it is considering,
- the suggestions which it feels cannot be entertained, subject to further guidance that may be obtained from meetings with the Court.

II. IMPROVEMENTS ALREADY IMPLEMENTED BY THE COMMISSION

1. *Delays*

The report gives the impression that the Commission has watched the delays getting longer without taking action. This is not the case: aware of the need to catch up, the Commission adopted as early as 1979 guidelines with regard to auditing methods to be applied for the years for which it was behindhand with clearance, the main innovations being the twinning of two years and the introduc-

tion of new auditing techniques (systems auditing and the strengthening of preventive action).

Much of the time lost until 1981 has now been made good: the auditing of expenditure has been completed until 1979 inclusive. Thus, within the near future, 48 000 million ECU will have been cleared out of the 58 000 million ECU declared. This will enable clearance decisions to be taken for 1976 and 1977 before the end of 1982 and for 1978 and 1979 in early 1983. The clearance of 1980 and 1981 is planned for the end of 1983/early 1984. The Commission will nevertheless make every effort to expedite this operation further. There is therefore definite and substantial progress on this problem.

2. *The dialogue procedure with the Member States*

1974 and 1975 is the first period of full application of the procedure for dialogue between the Commission's staff and those of the Member States.

The dialogue enables the civil servants in the Member States to comment on the observations made by the Commission's staff when checking documents and making on-the-spot checks and to defend or justify their viewpoints. It is therefore a very important aspect of the current procedure, which is designed to solve as far as possible disputes over the implementation of Community regulations. The Member States have expressed their satisfaction with the dialogue. In this field too there will still be scope for improvement which the Commission will endeavour to exploit.

The Commission has duly verified this procedure. It reached the conclusion that it is of great value in enabling the Commission to discharge its responsibilities properly but that it is definitely not a negotiation. The Commission regrets that a procedure which confers a “right to be heard” should be described by the Court as a “dialogue of the deaf”, an expression which it finds inappropriate and incorrect.

3. *Preventive action ensuring proper implementation of the Community regulations*

This action, which is of fundamental importance, has been substantially strengthened. In view, in particular, of the direct permanent contacts, the Commission's staff are in a position to anticipate problems of interpretation that may arise. The

questions asked by individual Member States and the comments made by the Commission's staff have been circulated to all the Member States for information systematically since 1981.

4. *Selective checks*

This is an innovation which the Commission had introduced in 1973, the value of which has been emphasized on a number of occasions by Parliament. These checks will probably be one of the most valuable instruments available for the phase of verification during management.

III. ADDITIONAL IMPROVEMENTS CONTEMPLATED BY THE COMMISSION

1. *The memorandum*

Whilst it does not agree that the updating of the memorandum has been a major cause of delay of the clearance process — a very small part (on average, less than 10 %) is updated each year — the Commission will make every effort to complete the updating before the beginning of the year. It hopes to be able to introduce this improvement this year. It should also be noted that, for 1982, the Commission sent the memorandum to the Member States as early as in March 1982. As for *ad hoc* updatings, the Court's suggestion will be examined carefully.

2. *Recording of second category expenditure*

The Commission will re-submit a proposal, already discussed with the Member States in early 1981, which had not been favourably received. The proposal consisted in bringing forward the date of closure of second category intervention accounts from 31 December to 31 October. This would eliminate the uncertainty surrounding this expenditure, since the final amount to be charged to the current year would be known before 31 December. It would also have the advantage of enabling total expenditure for the past year to be established earlier.

3. *Improvement of audit techniques*

In the Member States, the paying agencies are subject to an audit system (financial control of the agency) and supervision systems (verification of the

appropriate conditions for payment have been met), the aim being to ensure that the funds advanced to them by the EAGGF are properly disbursed. The question arising is how far the Commission, when preparing the accounts clearance decision, should use the results of the control and audit work carried out by these agencies.

There is a case for an affirmative answer (in particular, the need to avoid overlapping with waste of resources and inconvenience for staff subject to continuous supervision). Other arguments suggest, however, that this type of control is not an exclusive solution (responsibility for verifying the information on which the clearance decision is based cannot be delegated to the Member States; national interests and Community interests may conflict; an advantage may accrue to the Member States with the least efficient agencies, etc.).

The Commission takes the view that what is needed is better processing at national level of the controls, the complexity of which is brought out in the draft report itself. The departments conduct the work, associating the Member States. Systems auditing, mentioned above, will be one way of implementing this. An informal discussion between the Commission staff and the Member States was held at the end of June 1982 (at a seminar attended by staff from the Court). The Court will appreciate that the speed of introduction of systems auditing entails careful programming including more skilled staff and the full support of the Member States.

IV. OTHER SUGGESTIONS FROM THE COURT

The Court's other suggestions should probably not be taken up, at any rate not before clarification, which the Commission hopes to obtain during talks with Court representatives. The Commission wishes to stress at once, however, its desire to achieve substantial improvements in the clearance of EAGGF guarantee accounts. This is the constructive context in which the suggested meetings should be held.

V. OTHER REMARKS RELATING TO THE COURT'S SPECIAL DRAFT REPORT

The Commission notes below other points in the special draft report on which, because of their importance, it wishes to make observations or express reservations at this earlier stage.

1. No mention is made in the Court's observations of objective factors as a result of which the clearance work has got behind schedule, namely the heavy build-up of files due to the increase in expenditure (from 1 538.2 million EUA in 1971 to 11 098.7 million EUA in 1980), the enlargement of the Communities in 1973, currency disturbances and the introduction of a large number of new measures many of them complex. The corresponding resources in skilled staff which the Commission should have been in a position to mobilize to carry out this additional work were not made available.

2. The criticism in the initial observations of the "linear working procedure" and the "memorandum that is too late", indicated as factors having caused the "malfunctioning" of the clearance procedure, are in fact secondary symptoms inherent in the present catching-up process. Thus, the consequence of the effort made by the Commission's staff to make good the time lost was that the dialogue with the Member States on the years 1974 and 1975 took place partly during the same period as the on-the-spot checks for 1976 and 1977 or that the summary document on the conclusions of the verifications for 1974 and 1975 was drafted at the same time as the dialogue for 1976 and 1977 and the on-the-spot inspections for 1978 and 1979 took place. This work covering several accounting years carried out in the Member States was pressed forward concurrently to save time.

As for the delayed and incomplete transmission of data by the Member States which allegedly also contributed to the "disruption" of the clearance procedure, the Court does not realize how difficult it has been for the Member States to comply with the dates set down in the regulation. The updating of the memorandum and the close dialogue with the government departments, enhancing understanding of the machinery, should appreciably expedite transmission by the Member States of all the information needed for clearance.

3. There is no lack of continuity from one year to another in the EAGGF guarantee accounts in the Member States (point 2.21 of the report). Moreover, despite what is said in the draft (point 2.7), the clearance decisions are in this sense definitive; they are "incomplete" in the sense that expenditure

disallowed can — for several reasons acknowledged as valid in the document — still be accepted by the EAGGF during the following year. In this context, reference should be made to the judgment of the Court of Justice in Case 15/76 of 7 February 1979 (French Government v. Commission of the European Communities).

4. The corrections resulting from the clearance do not alter fundamentally the operations financed in the Member States as recorded in the management accounts. Nor should the corrections due to the clearance influence the estimates, since the latter are established on the assumption that the Community regulations will be properly applied by the Member States.

5. The Member States can audit the EAGGF guarantee accounts themselves, but they cannot approve them definitively, that is "clear" them, as suggested at point 2.21 (c) (ii) of the draft report.

VI. THE ROLE OF THE FINANCIAL CONTROLLER

The Commission wishes to reply in detail to the observations setting out a number of considerations relating to the role of Financial Controller, which it feels are not well founded.

The Commission notes, in this connection, a restrictive interpretation of the responsibilities of the Financial Controller which is not in line with arguments put forward elsewhere by the Court and by Parliament.

Respect for his independence must remain intact, as provided for in the Financial Regulation.

1. The assessment of the management and control of the Community regulations, which the Court finds unsatisfactory in point 2.13 (b) (ii) of its report, is carried out by the Financial Controller from a different angle for that of the clearance of accounts, on the occasion of selective checks, which are guided by the systems control technique. The selective checks should gradually have the effect of eliminating from the clearance procedure rectification operations deriving from interpretations or practices which are not in line with requirements and, in the long term, of making the clearance procedure simply a procedure for verifying accounts.

2. There is no "dispersion of the Commission's audit resources" as the Court states in the first subparagraph of point 2.28.

For years, by express decision of the Commission, the Financial Controller coordinates on-the-spot checks of Commission staff in all sectors, including the EAGGF.

Moreover, the Financial Controller, who must give an endorsement the content of which is set out in the Financial Regulation, could not do without on-the-spot checks, which constitute for him a very important source of the information he needs to grant his endorsement.

3. With regard to the advance payments to the Member States, mentioned in point 2.28 (a), the approval of the Financial Controller has, under Article 96 of the Financial Regulation, "the sole purpose of establishing that these commitments correspond to the amount of the advances decided by the Commission after consultation with the EAGGF Committee, and that they are within the limits of the total amount of appropriations entered in the Guarantee Section of the European Agricultural Guidance and Guarantee Fund".

The last point in this paragraph conflicts with the argument put forward by the Court in point 2.28 (b).

4. (a) The intervention of Financial Control in the accounts clearance procedure is described in point 2.28 (b) of the report as involving a "change in the original role of the Financial Controller", which has developed only because of inadequacies in the management services of the EAGGF Guarantee Section. This statement would lead to a limitation of the role of Financial Controller well within what is laid down by the Financial Regulation. The omissions concern:

- Article 11 of the detailed rules of implementation of certain provisions of the Financial Regulation (75/375/EEC of 30 June 1975), which empowers the Financial Controller to report to the Commission on the soundness of financial management,
- the fact that approval by Financial Control also entails an assessment of the reliability of the systems designed to ensure compliance with requirements and of the practicability and clarity of Community regulations and the scope they provide for the implementation of appropriate controls.

A Commission decision of 3 October 1973 introduced the concept of "selective" controls on specific questions with the Member States to be carried out by financial control, not directly connected with the "accounts clearance" audits or with the monthly chargings, but designed to bring the controls as close as possible to the time at which the operations were carried out and to study their context.

There is, therefore, no "change" in the role of Financial Controller and, for the same reasons, there is no "extension" of this role as defined by the Financial Regulation.

The above observations bring out clearly the importance of selective controls carried out by financial control.

(b) It should also be noted that the document makes no assessment of the intrinsic value of the selective controls, although these provide the basis for the systems controls recommended by the Court.

(c) With regard to the second part of paragraph (b), the controls carried out by the Financial Controller are based on the provisions of the Financial Regulation and on the Regulation implementing the Financial Regulation, and in particular Article 12 thereof.

(d) In view of the information given previously, the conclusion specified in the last subparagraph of point 2.28 (b) is without foundation.

5. Visits from financial control are prepared in close coordination with DG VI to avoid any overlapping. Given their specific angle of approach, and the coordination with DG VI with regard also to the position to be adopted towards the Member State, the observations in point 2.28 (c) (i) are not correct, especially as the frequency of the visits has been confined on average to one visit per Member State per year, which is of course quite insufficient for the Financial Controller's needs.

6. With regard to point 2.28 (c) (ii), the explanations given above make it quite clear that the Financial Controller must ensure that his approval already has significance at the stage of the monthly chargings and that he must intervene in the accounts clearance operations which he is also required to approve.

7. The statement in point 2.28 (c) (iii) is based on appearances and not on realities, which always require an independent proposal from the managing departments of the Commission, which is itself the authorizing officer. These operations are supported by the Financial Controller's approval.

The selective checks are carried out according to a quite different routine.

8. The Court suggests, in point 3.7 (c), that the sampling methods should be known in advance and agreed with the agency audited.

This approach would completely negate the very idea of sampling, the evidential value of which is based on the unforeseeability of the operations to be audited.

9. The Court expresses the view, in point 3.11 (a), "that with some internal reorganization the Commission would be able to deploy the staff necessary to restore the clearance procedure. ... An initial solution would be to rationalize the use of the Commission's audit and control resources". The same document, however, notes a number of extensive measures (point 1.3) undertaken by the Commission with a view to optimizing the operation of its staff and obtaining improved efficiency from the Financial Controller's departments.

Staffing remains insufficient. Moreover, any rationalization of the departments should maintain

the independence of internal control *vis-à-vis* the staff preparing the proposals for regulations and the management staff, in accordance with the strict requirements of the Financial Regulation and the views expressed, incidentally, by the Court itself.

Explanations given elsewhere show that rationalization through extensive coordination of auditing has already reached a satisfactory degree.

10. The very categorical statement in the last subparagraph of point 3.13 of the report would seem incorrect in two respects:

- EAGGF expenditure is not reflected in public accounts in the same way as national accounts,
- imperfections, mistakes and missing documents have on several occasions shown that there is a need for Community auditing.

Moreover, even if this consideration could be left out of account, the Commission still has a duty to carry out its own auditing in order to discharge the responsibilities assigned to it by the Treaties with regard to the management of the budget and the execution of the regulations adopted pursuant to the Treaties.

11. The procedure described in the third subparagraph of point 4.7 of the draft report would have the effect of making the Financial Controller's approval meaningless and making it a mere rubber stamp.

Sales and subscription offices	National currencies	Annual subscription			Price per single copy		
		'L + C' (calendar year) 1982	OJ Supplement (Notices and public contracts) calendar year 1982	'Annex — Debates' (March 1982-February 1983)	1 - 32 pages	33 - 80 pages	81 or more pages
UNITED KINGDOM H. M. Stationery Office — P.O. Box 569 London SE1 9NH — Tel. 01-928 69 77, ext. 365 National Giro account No 582-1002	£	87.00	39.00	29.00	0.90	1.80	
BELGIUM Moniteur belge — 40-42, rue de Louvain 1000 Bruxelles — Belgisch Staatsblad — Leuvense- straat 40-42 — 1000 Brussel — Postal cheque account: 000-200 5502-27 — Tel. 512 00 26	Bfrs	6 000,—	2 700,—	2 000,—	60,—	120,—	
DENMARK J. H. Schultz — Boghandel — Møntergade 19 DK 1116 København K — Tel. (01) 14-11-95	Dkr	1 155,—	515,—	386,—	11,60	23,20	
FRANCE Service de vente en France des publications des Communautés européennes — Journal officiel 26, rue Desaix — 75732 Paris Cedex 15 Tel. 5 78 61 39 — Postal cheque account: Paris 23-96	FF	900,—	400,—	300,—	9,—	18,—	
GERMANY Bundesanzeiger — 5000 Köln 1 — Breite Straße Tel. (02 21) 20 29-0 Postfach 108/006 Telex: Anzeiger Bonn 08 882 595 Postal cheque account: 83 400-502 Köln	DM	360,—	160,—	120,—	3,60	7,20	
GREECE 1. Ethnico Typografio Kapodistriou 34 — Athens 2. G. C. Eleftheroudakis Ltd 4 Nikis Street — Athens 126 Tel. (01) 322 22 55 — Telex 219410 elef gr	Dr	9 050,—	4 050,—	3 030,—	90,—	180,—	
IRELAND Govt. Publications, Sales Office, GPO Arcade, Dublin 1 <i>or by post from</i> Stationery Office, Dublin 4 — Tel. 78 96 44	£ Irl	100.00	45.00	33.60	1.00	2.00	
ITALY Istituto Poligrafico e Zecca dello Stato Libreria dello Stato, piazza G. Verdi 10 — 00100 Roma Tel. (06) 85 08 22 76 — 85 08 22 21 CCP: 38 70 01 — Telex IPZSRO 611 008	Lit	190 000	84 600	63 500	1 900	3 800	
LUXEMBOURG Subscriptions to the OJ may be arranged and paid for at Post Offices <i>Sale of single copies*</i>	Lfrs	6 000,—	2 700,—	2 000,—	60,—	120,—	
NETHERLANDS Staatsdrukkerij- en Uitgeverijbedrijf Christoffel Plantijnstraat — The Hague Tel. (070) 78 99 11 — Postal cheque account: 42 53 00	Fl	395,—	180,—	132,—	4,—	8,—	
OTHER COUNTRIES <i>Subscriptions and sale of single copies*</i>	Bfrs	6 000,—	2 700,—	2 000,—	60,—	120,—	

Price determined according to each case and printed on cover

* Office for Official Publications of the European Communities — Tel. 49 00 81

L-2985 Luxembourg — Postal cheque account: 19 190-81 — Bank current account: B.I.L. 8-109/6003/200

Special mailing charges are invoiced separately. Other European Communities' publications on sale, whether periodical or otherwise, may be obtained at the abovementioned offices. Price lists sent free on request.

OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES — L-2985 LUXEMBOURG