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I
(Information)

COURT OF AUDITORS

SPECIAL REPORT OF THE COURT OF AUDITORS

**on the application of Regulations (EEC) No 1078/77 and (EEC) No 1041/78
introducing a system or premiums for the non-marketing of milk products and for the
conversion of dairy herds**

This report was adopted by the Court of Auditors at its meeting of 14 April 1983, in application of Article 206a of the EEC Treaty. The report had previously been sent to the Commission on 12 January 1983 for comment; the replies of the Commission are annexed hereto.

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CHAPTER 1

**THE SYSTEM OF PREMIUMS SET UP
BY REGULATIONS (EEC) No 1078/77 AND (EEC)
No 1041/78**

1.1. INTRODUCTION

1.1.1. The system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds is part of a set of measures designed gradually to restore the balance between supply and demand on the market in milk and milk products.

1.1.2. The provisions governing this system are contained in Council Regulations (EEC) No 1078/77⁽¹⁾, (EEC) No 506/78⁽²⁾, (EEC) No 1041/78⁽³⁾, (EEC) No 640/79⁽⁴⁾ and (EEC) No 1270/79⁽⁵⁾, supplemented by Commission implementing Regulations (EEC) No 1307/77⁽⁶⁾, (EEC) No 36/78⁽⁷⁾, (EEC) No 689/78⁽⁸⁾, (EEC) No 1391/78⁽⁹⁾, (EEC) No 2962/78⁽¹⁰⁾, (EEC) No 1799/79⁽¹¹⁾ and (EEC) No 1365/80⁽¹²⁾.

1.1.3. The system of premiums constitutes both an intervention within the meaning of Article 3 of Regulation (EEC) No 729/70⁽¹³⁾ in so far as it is intended to stabilize the agricultural markets, and a common measure within the meaning of Article 6 of the same Regulation in that it is designed to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production, including the structural changes necessary for the proper working of the common market. It is wholly

(1) OJ No L 131, 26. 5. 1977, p. 1.

(2) OJ No L 69, 11. 3. 1978, p. 2.

(3) OJ No L 134, 29. 6. 1978, p. 9.

(4) OJ No L 82, 31. 3. 1979, p. 2.

(5) OJ No L 161, 29. 6. 1979, p. 10.

(6) OJ No L 150, 18. 6. 1977, p. 24.

(7) OJ No L 7, 10. 1. 1978, p. 6.

(8) OJ No L 93, 7. 4. 1978, p. 17.

(9) OJ No L 167, 24. 6. 1978, p. 45.

(10) OJ No L 352, 16. 12. 1978, p. 23.

(11) OJ No L 206, 14. 12. 1979, p. 12.

(12) OJ No L 140, 5. 6. 1980, p. 18.

(13) OJ No L 94, 28. 4. 1970, p. 13.

financed by the EAGGF, 60 % by the Guarantee Section and 40 % by the Guidance Section.

1.1.4. Apart from limiting the quantities of milk and milk products brought into the market, the particular aims of the system introduced by Regulations (EEC) No 1078/77 and (EEC) No 1041/78 were, in respect of structural improvement and the rationalization of production, to:

- promote greater specialization on holdings between stock farming for dairy production and that for meat production, specialization of this nature being one of the conditions necessary for improving yields,
- increase the impact of Council Directive 72/160/EEC of 17 April 1972 concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement⁽¹⁴⁾ and thus to speed up the cessation of dairy farming. To this end, a person who ceases farming may receive both the conversion premium and the annuity provided for in Directive 72/160/EEC,
- step up the programme to eradicate infectious diseases by encouraging the slaughter of infected dairy cows. To this end the Council has provided that the non-marketing and conversion premiums shall be added to aid granted in connection with programmes to eradicate brucellosis, tuberculosis and bovine leucosis.

1.1.5. Accordingly, the system introduced by Regulation (EEC) No 1078/77 provides, subject to various conditions, for the grant of premiums to producers who undertake not to dispose of either milk or milk products from their holdings during a given period.

For the duration of the same period, the producers must also undertake, as far as the non-marketing premium is concerned, not to allow their holdings or their cattle to be used by or leased to others for the purpose of dairy farming and, moreover, where the conversion premium is concerned, to keep a certain number of adult bovine units.

This system was to be applied until 31 March 1978.

1.1.6. In May 1978 the Council adopted Regulation (EEC) No 1041/78, which extended the time limit for implementation of the basic measures.

(14) OJ No L 96, 23. 4. 1972, p. 9.

In order to increase the number of farmers participating in the scheme, this Regulation introduces the following amendments :

- the premium is increased for small producers; a new reference period is used in calculating the amount and changes have been made in the quantities of milk taken into account;
- in order to enable the farmer to know the exact amount of the premium he will receive, it is no longer determined by reference to the target price valid on the date of approval of the application, but remains constant, depending on the quantities of milk delivered.

The system subsequently underwent a number of other changes to non-essential provisions, made by Council Regulations (EEC) No 640/79 and (EEC) No 1270/79 and Commission Regulations (EEC) No 1391/78, (EEC) No 2962/78, (EEC) No 1799/79 and (EEC) No 1365/80. The scheme came to an end on 15 September 1980 for the non-marketing premium and at the close of the 1980/81 milk year (1 April) for the conversion premium (Regulation (EEC) No 1365/80).

1.2. AMOUNT OF THE NON-MARKETING AND CONVERSION PREMIUMS

1.2.1. Applications prior to 22 May 1978

The amount of the premiums is obtained by multiplying a percentage of the milk target price valid on the date of approval of the application by the quantities of milk or milk products delivered in 1976.

1.2.1.1. The non-marketing premium is calculated as follows :

- 95 % of the target price for quantities of milk up to 30 000 kilograms,
- 90 % of this price for quantities from 30 000 to 50 000 kilograms,
- 75 % of this price for quantities from 50 000 to 120 000 kilograms.

Furthermore, when a recipient is taking part in a measure to eradicate an epizootic disease and (in certain special cases) also has the possibility of exceeding the maximum of 120 000 kilograms, the

rate of the premium will be 75 % of the target price for the quantity of milk exceeding the 120 000 kilograms.

The premium is paid in three instalments, the first of 50 % payable during the first three months of the non-marketing period and the two others of 25 %, payable in the third and fifth years.

For recipients intending to make use of Directive 72/160/EEC, two schemes are laid down :

- (a) when the recipients cease farming after completing a period of at least two years of non-marketing, they are relieved of their obligations;
- (b) when they cease farming at the end of their third year of non-marketing, they are also relieved of their obligations, but the final payment for the third year is equal to only 37,5 % of the non-marketing premium.

In both cases, no sum received is repayable; recipients may not, however, subsequently receive a non-marketing premium.

1.2.1.2. The conversion premium is calculated as follows: either 90 % of the target price for quantities not in excess of 120 000 kilograms, or the amount which would have been due in non-marketing premiums, whichever is the higher. The same rate applies for quantities taken into account when the recipient is participating in a programme to eradicate epizootic diseases; the maximum of 120 000 kilograms may then be exceeded.

The premium is paid in three instalments, the first of 60 % payable in the first three months of the conversion period, the other two each of 20 %, payable in the third and fourth years respectively.

1.2.2. Applications after 22 May 1978

The reference year for milk production giving entitlement to the premium is the 12 months preceding the application; no maximum amount is specified.

The premium per 100 kilograms is :

- for the non-marketing premium :
 - between 0 and 30 000 kilograms : 20 u.a.,
 - between 30 000 and 50 000 kilograms : 18 u.a.,
 - between 50 000 and 120 000 kilograms : 13,5 u.a.,
 - above 120 000 kilograms : 11 u.a.,

- for the conversion premium :
 - between 0 and 120 000 kilograms : 17,5 u.a.,
 - 120 000 kilograms and over : 11 u.a.

The premium is usually paid in instalments.

Producers whose application has been approved before 22 May 1978 may have their premium calculated on the basis of the new rates, but any increases which may thus arise are applicable only to instalments due after 22 May 1978.

1.3. GENERAL CONDITIONS FOR OBTAINING THE PREMIUMS

1.3.1 Applications approved prior to 22 May 1978

1.3.1.1. *Non-marketing premium*

The application must be made by a producer who, on the date on which the application is lodged, has on his holding an appropriate number of cows, i.e. corresponding to his deliveries of milk during 1976, which is the reference period. This condition must be satisfied on the date of approval, otherwise the premium is reduced.

The granting of the non-marketing premium is conditional upon a written undertaking by the producer :

- not to dispose of, whether for a consideration or free of charge, milk or milk products from his holding, during the non-marketing period,
- from the date on which the application is lodged until the end of the non-marketing period :
 - not to allow his holding or any part thereof to be used by others for dairy farming,
 - not to lease his dairy cattle or entrust them to others, whether for a consideration or free of charge,
 - not to dispose of his dairy cattle except for slaughter or for export.

The non-marketing period lasts five years. It begins at the latest at the end of the sixth month following the date on which the application was approved.

1.3.1.2. *Conversion premium*

The producer who applies for the premium must have delivered 50 000 kilograms of milk or the equivalent in milk products in 1976 or have on his holding 15 dairy cows, including in-calf heifers; the latter condition must be satisfied on the date of approval of the application. In both cases he must,

at the date of approval of the application, still be delivering milk in quantities corresponding to the number of cows referred to above; otherwise, the premium will be reduced accordingly.

During the conversion period, the producer must undertake not to dispose of either milk or milk products from his holding, whether for a consideration or free of charge.

He must also undertake that, from the date on which his application is lodged until the end of the conversion period, he will comply with the other conditions laid down for the granting of the non-marketing premium.

He must likewise undertake to keep on his holding during the conversion period an average number of adult bovine units equal to or greater than the number kept on the same holding on the reference date.

The conversion period lasts four years and begins at the latest at the end of the sixth month following the date of approval of the application.

Finally, if the producer retains cows, he must show that he has so husbanded his herd that, at the latest at the end of the third year after the date of approval of the application, at least 80 % of the cows or in-calf heifers either possess the characteristics of one of the recognized meat-producing breeds, or are cross-breeds sired by a bull either of a recognized meat-producing breed or 'with sufficient guarantees of its capability to transmit the essential characteristics' of a recognized meat-producing breed.

1.3.2. Applications approved after 22 May 1978

For both premiums, the reference period for determining the appropriate number of cows is no longer 1976, but the 12 calendar months preceding the month of application.

1.4. BUDGETARY AND ACCOUNTING ASPECTS OF THE MEASURE

1.4.1. In terms of financial management, the joint financing by the two sections of the EAGGF, introduced by Regulations (EEC) No 1078/77 and (EEC) No 1041/78, has proved to have some disadvantages because these two sections have different financial systems.

The detailed rules finally adopted for the financial application of this measure were those for payment of advances to the Member States.

However, in accordance with Article 10 of Regulation (EEC) No 1078/77, Denmark and the United Kingdom opted for the system of reimbursements for their expenses for 1977 chargeable to the Guidance Section.

1.4.2. The Court of Auditors noted, in respect of the financial year 1978⁽¹⁾, that the system had needed some corrections to the calculation of the appropriations available to be carried over at the end of the financial year:

1.4.3. For the financial year 1980, the Court also noted that advances of funds had been made to the Member States from the Guarantee Section for expenses chargeable to the Guidance Section, whilst awaiting transfers of appropriations from the Guarantee to the Guidance Section⁽²⁾.

1.4.4. The table shows the expenditure of the Member States from 1977 to 1982 (first six months).

Expenditure by the Member States under Regulations (EEC) No 1078/77 and (EEC) No 1041/78

(in 1 000 u.a. used during the financial years in question)

Year	Belgium	Denmark	Germany	France	Ireland	Luxembourg	Netherlands	United Kingdom	Total
1977	119,9	1 307,4	6 184,4	49,8	—	58,9	860,3	1 696,1	10 276,8
1978	3 036,5	12 135,7	88 590,8	39 011,7	833,8	683,9	8 001,6	10 024,8	162 318,8
1979	3 549,5	15 495,2	74 994,1	25 612,7	2 718,5	509,9	6 752,5	19 131,3	148 763,7
1980	1 891,4	22 300,2	86 712,5	26 937,5	8 316,7	316,6	11 673,1	47 563,6	205 711,6
1981	2 287,0	18 082,2	106 787,5	29 033,0	9 218,9	828,9	10 444,2	41 023,2	217 704,9
1982 (first six months)	826,9	8 911,4	26 262,3	11 998,1	3 415,5	65,2	4 841,4	15 258,9	71 579,7
Total	11 711,2	78 232,1	389 531,6	132 642,8	24 503,4	2 463,4	42 573,1	134 697,9	816 355,5

NB: These measures do not apply to Italy, as provided for in Decision 77/433/EEC (OJ No L 170, 8. 7. 1977, p. 30).

CHAPTER 2

IMPLEMENTATION AND ADMINISTRATIVE SUPERVISION OF THE SYSTEM OF PREMIUMS

2.1. CHECKS CARRIED OUT AT THE TIME OF LODGING AND APPROVAL OF THE APPLICATION

2.1.1. Community provisions

In his application, the milk producer firstly specifies the type of premium applied for and then states the total number of bovine animals and sheep kept on the holding at the time of lodging the application, specifying the number of dairy cows, the number of other female bovine animals and, in the case of the conversion premium, the numbers of other animals which could be taken into account for calculating livestock units, the quantities of milk and milk products supplied in

the course of the 12 preceding months and the area under forage farmed at the time of lodging the application. The producer also signs a declaration stating that he is aware of the rules governing the premium system.

These factors first of all give entitlement to the premium and are then used to assess the amount of premium. The detailed rules for verifying these particulars are as follows:

- the quantities of milk must be confirmed by the purchasers (usually the dairies) and verified by the local administration,
- the number of animals to be taken into account for calculating the livestock units, in the case of the conversion premium, is fixed by the administration,
- the number of bovine animals and sheep is checked by the administration,
- the dairy herd, which has already been counted (see previous indent), is marked by the administration, which also issues an identity card to the farmer,

⁽¹⁾ OJ No C 326, 31. 12. 1979, p. 18 (paragraph 2.16 (c)).

⁽²⁾ OJ No C 344, 31. 12. 1981, p. 67 (paragraph 5.4).

— the area under forage is registered.

For the purposes of checking compliance of the recipients with their obligations, the national authority issues an identity card for each marked dairy cow, the original of which is to accompany the animal concerned. On each change of ownership the name, address and signature of the new owner is inserted on the identity card if the obligations arising under the premium system still apply to the animal concerned.

The administration may exceptionally issue duplicate copies (Regulation (EEC) No 2962/78). It should also be noted that the recipient of aid must request the registration and issue of an identity card for every dairy animal kept by him which needs to be marked.

The approval of the application states expressly that the recipient of the premium is responsible for returning the identity card and, in the event of animals being sold, requests that he make appropriate contractual provision to ensure its return.

The producer announces the date on which he will begin the non-marketing or conversion period. This date may subsequently be invoked against him.

2.1.2. The Member States' administrative practices

In general, the national administrative controls at this stage follow the provisions laid down in Community Regulations. Nevertheless, various factors on which the premium is based, or which relate to its amount or to the conditions for obtaining it, cause serious problems.

2.1.2.1. Identification and marking of dairy cows

When the application is lodged, the administration itself, or a semi-public body authorized by it, carries out the checks laid down in Article 5 (1) (b) of Regulation (EEC) No 1391/78 (see second paragraph of point 2.1.1). The dairy herd is therefore marked and registered, and the identity cards are issued.

Dairy cows are normally marked by means of an ear-tag fixed in the animal's ear.

Although as a general rule the number marked on the ear-tag will safely correspond with that given on the identity card, there is still the danger of a farmer substituting for a confirmed dairy cow, which has in fact been marked under this system of premiums, an animal which is of a lower quality or even wholly unsuited to milk production; the high-yield cow is then sold to a neighbour at a high price, whilst the poor-quality animal replaces it in the herd belonging to the farmer requesting the premium.

The nature of the ear-tags and the method of obtaining them are therefore particularly important.

The Court's checks showed that in some 'Länder' in Germany and in other Member States, the ear-tags used in connection with this system of premiums were the same as those normally used by producers. Only a few 'Länder' and Luxembourg had made arrangements for a tag bearing a special official stamp issued only to the administration. In Luxembourg, however, this stamp is situated on the inside of the ear-tag, with the result that it is not possible to verify that it is the official stamp without removing the tag from the animal's ear.

In most of the Member States visited, marking is carried out by the administration; in the United Kingdom, however, it is done by the recipient of the premium. This increases the risk of animals being substituted.

The situation is more satisfactory in France, which has gradually introduced an identification system for bovine livestock; it applies to female animals only, however, and is administered at 'département' level, without as yet any centralization of data.

2.1.2.2. Keeping an 'appropriate number' of dairy cows

Article 2(1) of Regulation (EEC) No 1078/77 makes the grant of the non-marketing premium conditional upon the farmer's having an appropriate number of dairy cows; Article 3 of the same Regulation makes this condition applicable to the conversion premium.

The producer must satisfy the competent authorities that he has dairy cows on his holding in numbers appropriate to the quantities of milk delivered by him during 1976 (Regulation (EEC) No 1041/78: during the 12 months preceding the month of his application) and that he is continuing to deliver corresponding quantities.

Article 1(3)(b) of Regulation (EEC) No 1391/78 provides for a proportional reduction in the quantity of milk on which the premium will be calculated where the number of dairy cows kept on the holding as recorded on the date of approval of the application is less than the appropriate number for the quantity of milk, and a further reduction where it is found that during the period between the day when the application is lodged and the day when it is approved the applicant has not observed his undertakings in respect of his dairy cows (not to lease his dairy cattle or entrust them to others,

whether for a consideration or free of charge, not to dispose of them except for slaughter or export).

The Commission, on the basis of statistical sources, has specified the average yield per cow for each Member State; these are only reference figures and the Member States are free to determine more specific figures according to region or locality, as is the case in Germany, or even to provide for a gradual increase in average milk yield between 1977 and 1980, as has been done in England.

When the milk yield per animal (obtained by dividing the quantities delivered by the producer by the number of dairy cows) on a holding is lower than this figure, the figures supplied by the recipient are accepted, provided that they are corroborated by certificates from the dairy to which he delivers his produce.

If, on the other hand, his average yield is above the national, regional or local average, then he is called upon to prove the milk yield for each dairy cow. Milk-yield control certificates may be produced for this purpose. In some Member States (France, Germany and Belgium), however, the Court has noted numerous cases where the non-marketing premium, calculated on the quantity sold, had been paid for yields higher than a national or local average, without any proof of these yields being included in the recipient's file. Frequently, these higher payments were based on an estimate by the inspector who claimed he was familiar with the holding or the herd.

Another source of irregularities (quite common in Germany) stems from the possibility of making substitutions in the dairy herd before the application for the premium is lodged, in the following manner:

The dairy producer who intends to apply for the premium sells his high-yield cows and replaces them with cull cows; since the Community regulations do not establish a material link between the quantities of milk produced during the reference period and the presence on the holding of the cows which have produced them, the administration has no possibility of redress when it discovers, at its first check, that the animals are obviously incapable of producing the quantities certified by the

dairy (and which have actually been produced by other animals). Added to this is the fact that the animals are not required to be marked very long in advance of the commencement of the measure. One way of ensuring that the cows present at the time the application is made, allowing for the normal, periodical changes of a herd, are actually those which produced the quantities certified, would be to require, for example, that the animals be present on the holding for at least six months prior to the application.

2.1.2.3. *The quantities of milk or milk products*

When the farmer had been in the habit of selling milk to private individuals, there is generally sufficient documentary proof of those deliveries, as is the case in France and Belgium. The same is true for butter or cream sold at the farm in Belgium.

Following an enquiry conducted in France, the Court found that the French authorities had worded their instructions as follows: 'Where dairies pay their suppliers on the basis of quantities expressed in litres, it is in the applicants' own interest to ask the dairies, for the purposes of this system of premiums, to issue certificates of purchase expressed in kilograms'.

These instructions contravene the provisions of the first indent of Article 1 (3) (a) of Regulation (EEC) No 1391/78, which provide that, for the purpose of determining the quantity of milk on which the premium is calculated, one kilogram of milk equals one litre of milk.

2.1.2.4. *Registration of agricultural areas*

During an on-the-spot check in 1979, the Court found that in one 'Land' in the Federal Republic of Germany, a number of recipients were no longer farming any agricultural land at all, or only very small areas, when they lodged their application for the premium. Their land (meadow land) had been leased or sold to neighbours or relations, who were generally dairy farmers.

This practice, in conjunction with the exemptions allowed in the case of cessation of farming, leads to the following consequences:

— a part — and, in some regions of North Germany, quite a substantial part — of the agricultural areas in this way escape the prohibitions

laid down in Article 2 (2) (b) of Regulation (EEC) No 1078/77.

- the Community is financing a transfer to the next generation of dairy farmers, in so far as the land is taken over by a son or son-in-law or by neighbours who are almost always milk producers. It is an object that bears little relation to curbing milk production.

In the Court's opinion, even under the existing regulations, the holding of an applicant for the non-marketing premium ought always to include both buildings and land. The Court bases its argument on the combined effect of Article 6 (2) of Regulation (EEC) No 1078/77 and Articles 4 (2) (d), 10 and 12 (2) (c) of Regulation (EEC) No 1391/78.

Nonetheless, the rules imposed cannot be too strict.

Requesting the recipient to freeze his title to land for a relatively long period of time is not a viable solution, whilst requiring him to hold an 'area appropriate' to the herd he keeps is a solution which could not be applied in regions of milk production independent of land, in particular in the Netherlands.

It was therefore thought preferable to abandon any condition of this type, with the effects detrimental to the success of the measure, as mentioned above.

The situation is somewhat different in Ireland, where a number of farmers lease part of their land for an 11-month term, renewable every year. Recently there was a substantial increase in rents, with the result that the leases for these areas of land have been put up for auction and any farmer who had undertaken to comply for five years with the first indent of Article 2 (2) (b) of Regulation (EEC) No 1078/77 (not to allow his holding or any part thereof to be used by others for dairy farming) is no longer in a position to fulfil his obligations since he has not been able to keep his land.

2.2. CHECKS DURING THE NON-MARKETING OR CONVERSION PERIOD

During this four- or five-year period, the administration has to check that the various provisions laid down in the Regulations are being complied with and for this purpose organizes checks either annu-

ally or prior to payment of the various instalments of the premium during the non-marketing or conversion period.

These checks relate to observance of the non-marketing undertaking, to the retention on the holding of the given number and type of dairy cattle, except in cases of export or slaughter, to the composition of the agricultural area farmed, and to the conditions to be observed in the event of land being transferred, i.e. to notify the administration and have the farmer who takes over the property undertake in writing to fulfil the conditions of the premium.

2.2.1. Conduct of the checks

The Court, which has attended checks organized by the national administrations, has found that the way in which they are carried out varies considerably from one country to another.

In most of the Member States visited by the Court, annual inspections are made. Either all the recipients are checked, as in the United Kingdom or Ireland, or else a percentage of the farmers, as in Germany. Practice differs considerably from one administrative division to another, according to the resources employed, the time available and, above all, the number of recipients. In France, the Ministry of Agriculture's circulars expressly require the on-the-spot checks to be annual.

It should however be noted that in one 'département', at the time of the Court's visit in 1980, no on-the-spot check had taken place since the application for the premiums had been approved.

All too frequently checks are not carried out on the spot but merely on the basis of files. In such cases, the administration sends forms to the recipients who fill them out, certify on their honour that the information they have given is true and then return the forms.

Even if the administration subsequently carries out on-the-spot checks on 5 % of the applications (as in one German 'Land') or on an even lower number of recipients, the risk of irregularities occurring is too great. The fact that other information, in particular on card-index systems, is available to the administration, is not enough to compensate for the lack of on-the-spot checks. These card indexes are not always kept up to date, and they can only be consulted by the authority administering these

measures, which does not use them in a systematic fashion.

2.2.2. Use of agricultural areas in the event of partial transfer of dairy holdings during the non-marketing or conversion period

Under Article 6 (2) of Regulation (EEC) No 1078/77, where only part of a holding is transferred, the applicant retains his right to the premium if the person to whom he has transferred the property undertakes in writing to continue to fulfil the undertakings entered into by his predecessor.

One of these undertakings is that specified in Article 2 (2) (b) of the same Regulation: from the date on which the application is lodged until the end of the non-marketing period, the producer will:

- not allow his holding or any part thereof to be used by others for dairy farming,
- not lease his dairy cattle or entrust them to others, whether for a consideration or free of charge,
- not dispose of his dairy cattle except for slaughter or for export.

The Commission considers that the transferee is not fulfilling his undertakings when he allows his dairy cows to graze on these areas under forage, a fact which is obviously difficult to verify. Moreover, the agricultural areas belonging to a transferee, if he previously owned them, are not affected by this undertaking: they can therefore be used more intensively for milk production, whilst the areas under forage which have been acquired will be used only for grazing bull calves, so that there will be no change in the level of milk production attainable by the farmer who acquires these agricultural areas that are subject to the said prohibition.

Efforts have been made in the various Member States to implement the provisions of the Community Regulations.

In one 'Land' in Germany, the administration, provided it is aware of the transfer, summons both the transferer and the transferee to sign an agreement stating that they will abide by the conditions given above.

In the United Kingdom, the Court was able to draw the administration's attention to a case where the recipient of the premium had sold part of his holding during the non-marketing period; according to the administration, this recipient has now

repaid all the premium he had received. Following the Court's audit, the administration promised that it would ensure that henceforth the Land Registry will send notification as necessary of any changes to the authority administering the non-marketing and conversion premiums.

An indirect form of transfer is also a possibility: the recipient can thus sell to dairy holdings the forage produced on agricultural land of his that is subject to the prohibition. It would be difficult to check in such a case whether or not the recipient was fulfilling his undertaking, since this would involve ascertaining whether certain agricultural land was still being used for the purpose of milk production by neighbouring dairy farmers; in this instance the formal ownership of this land is only of secondary importance. If these areas are leased by oral agreement, the maize or hay they produce can still be sold, bartered or even given away for nothing, without the authorities responsible for supervising this system of premiums noticing, unless they devote very substantial amounts of money to supervision of the measure.

2.2.3. The rules regarding the animals

2.2.3.1. When the animals giving entitlement to the premium remain on the holding, they must bear an ear-tag and the appropriate identity card must be issued. Heifers aged over six months which are also on the holding (born in the herd or else bought) must meet the same requirements. Animals which have lost their ear-tag must be fitted with a new one.

During its inspections on agricultural holdings, the Court found that, as a general rule, inspectors did not physically check the numbers on the ear-tags when the cattle were out on the pasture-land.

2.2.3.2. The officials in charge of the checks pay particular attention to ascertaining whether there have been any animals in the vicinity of the milking buildings and that there are no milk churns or refrigerated tanks or any forage on holdings where the farmer no longer keeps a herd.

The inspectors are obviously primarily concerned with what they can actually check themselves, i.e. milking equipment, refrigerated tanks, forage (when the farmer has returned all his identity cards).

During an on-the-spot check in the United Kingdom it was found that one inspector was in the habit of giving the recipient part of his inspection report for the latter to complete. It is not known

whether the farmer's information was subsequently verified.

2.2.3.3. When the animal leaves the holding, it must either be slaughtered or exported.

Article 8 of Regulation (EEC) No 1391/78 adds 'immediately' and the United Kingdom administration seems to be alone in concerning itself with the implementation of this rule by specifying a time limit of five days.

A specific requirement of this nature is essential in so far as a short time limit ensures the prompt return of identity cards to the administration and prevents cows intended for slaughter continuing to be used for milk production after they have left the holding. An example of the latter instance was found in England where the manager of a slaughterhouse also farmed a holding on which he kept for up to three months animals which should have been slaughtered 'immediately'.

2.2.3.4. Proof of slaughter or export is in theory provided by the duly completed identity card. One of the main findings of the Court was that the information which was supposed to be given on these cards was often incomplete or incorrect. It is not appropriate to give a comprehensive list of such errors here, but it should be noted that Sections 7 and 8 for the subsequent purchasers of the animal are only rarely completed, whilst all too often the stamp, date and signature certifying that the animal has been slaughtered are missing or are the wrong ones. It has also been observed that certain national administrations did not trouble to check the identity cards when they were sent in (which thus postponed a considerable burden of work until the time when the balance of the premium was due to be paid) and that sometimes the cards were not returned to the administration, although this could not be blamed on the recipients of the premiums.

The identity card, as currently used in the Member States, has three main drawbacks:

- it does not help to forestall attempts to commit irregularities since in many cases it can be used to further such attempts,
- it is of no assistance where there is doubt as to whether the animal has actually been slaughtered or exported, in reconstructing what has become of the animal,
- it does not constitute infallible proof of the slaughter or export of the animal.

The Court had already observed this in its annual report for the financial year 1979 (1).

During the joint audit carried out with the Federal German Court of Auditors, it was observed that gaps and ambiguities in the regulations and the fact that the identity cards were not properly completed, were jeopardizing the proper functioning of this measure.

The Commission also commented on this in its consolidated report of 7 July 1982 on the results of the audits concerning clearance of the accounts of the EAGGF Guarantee Section for the financial years 1976 and 1977. It therefore provided for reductions in the premiums in the event of the identity cards not being completed before final payment to the recipient.

2.2.4. Effective termination of milk deliveries

Article 5 (3) of Regulation (EEC) No 1391/78 provides that the producer shall notify the competent authority, before the beginning of the non-marketing or conversion period, of the date of its commencement. If the recipient has his dairy herd slaughtered between the date of approval of the application and the beginning of the period of non-marketing, there is no problem. If he keeps his herd on the holding, he will continue to produce milk which he is not allowed to dispose of, whether for a consideration or free of charge.

Since milk is usually sold to a dairy, the administration should obtain the cooperation of the dairies, in order to be sure that deliveries of milk have actually ceased.

Thus, although the Community Regulations do not specifically provide for this check, responsible management of this type of premium would usually include confirmation that deliveries have ceased (Article 5 (3) of Regulation (EEC) No 1391/78) and that, during the non-marketing or conversion period, the recipient of the premium has not resumed his deliveries. This kind of check is particularly useful when on-the-spot checks are applied only to a very small number of recipients, but it still does not cover cases where the producers decide to supply their milk to a dairy cooperative situated in another administrative area ('département', 'Land'). In view of the fact that the milk

(1) OJ No C 342, 31. 12. 1980, pp. 90 and 91.

collection areas are very extensive in some regions, this possibility cannot be ruled out.

It should be noted in this connection that, when the Court participated in a Commission audit in June 1978 on expenditure related to the application of Regulation (EEC) No 1353/73 (1) in Brittany, it was found that the Departmental Directorates of Agriculture checked with the dairies that deliveries had ceased. It is regrettable that for the system of premiums under Regulations (EEC) No 1078/77 and (EEC) No 1041/78, although financed wholly by the Community, the French authorities have stated that access by administrations to undertakings' accounting documents is strictly regulated and restricted, and may not be used for such checks.

(1) OJ No L 141, 28. 5. 1973, p. 18.

CHAPTER 3

THE IMPACT OF THE MEASURE

3.1. THE COMMISSION'S FINDINGS

The data which the Commission has at its disposal as regards the situation at the end of December 1981 (fifth report, in preparation) are summarized in the tables below.

As shown, 122 787 applications had been approved. Over the period July 1977 to December 1981, 6,3 % of the dairy producers counted in 1977 ceased this kind of farming under the system of premiums; this represents nearly 1,7 million cows and 6,7 % of total Community livestock. The Federal Republic of Germany and Denmark head the list of the number of cows withdrawn from dairy farming, with 12 and 14 % respectively.

Member State	Non-marketing and conversion premium applicants		Number of cows		Quantity of milk	
	Number	As % of the number of dairy farmers in 1977	× 1 000	% of EEC livestock	1 000 tonnes	As % of deliveries to dairies in 1978
Belgium	2 460	3,7	36,1	3,7	99,3	3,2
Denmark	7 670	13,7	156,0	14,2	665,7	13,5
Germany	76 490	14,7	670,8	12,4	2 391,4	10,4
France	20 266	3,5	327,7	4,4	1 009,6	4,1
Ireland	3 230	2,7	92,0	6,2	272,9	6,0
Luxembourg	400	10,7	5,1	7,5	17,1	6,9
Netherlands	4 067	4,9	73,6	3,3	320,4	2,8
United Kingdom	8 204	11,4	326,3	9,8	1 352,1	8,7
Total (1)	122 787	6,3	1 687,6	6,7	6 128,5	6,4

(1) Including Italy.

Member State	Non-marketing				Conversion			
	Applicants		Number of cows		Applicants		Number of cows	
	Number	%	× 1 000	%	Number	%	× 1 000	%
Belgium	2 122	1,9	26,6	2,0	338	3,0	9,5	2,9
Denmark	7 577	6,8	153,3	11,3	93	0,8	2,6	0,8
Germany	73 831	66,2	609,0	44,8	2 659	23,6	61,7	18,8
France	15 777	14,1	213,4	15,7	4 489	40,0	114,3	34,7
Ireland	2 280	2,0	58,7	4,3	950	8,7	33,3	10,1
Luxembourg	389	0,4	4,8	0,4	11	0,1	0,3	0,1
Netherlands	3 895	3,5	69,0	5,1	172	1,5	4,6	1,4
United Kingdom	5 694	5,1	223,5	16,4	2 510	22,3	102,8	31,2
Total	111 565	100,0	1 358,3	100,0	11 222	100,0	329,1	100,0

The conclusion the Commission draws from these findings is that, despite the fact that the system of premiums has been applied for nearly four years, it has not succeeded in curbing milk production as hoped. Between 1977 and 1981, deliveries of milk to dairies rose by approximately 10 million tonnes or 11,4%. The applications approved, however, only represented about 6,1 million tonnes of milk.

The number of cows withdrawn from dairy production exceeded by about 30 % the original target of 1,3 million animals. The effect on the total Community herd, however, is only slight. Experience has clearly shown that only relatively short-term measures would make it possible to obtain better results, as has indeed been proved in the case of Regulations (EEC) No 1975/69⁽¹⁾ and (EEC) No 1353/73⁽²⁾. The final suspension of the measure was additional proof of this, as a flood of applications was registered during the last month.

3.2. OUTCOME OF COMMUNITY ACTION

The steady upward trend in milk production, to which the Commission was already drawing attention in its third report to the Council, has continued over the years.

This is a familiar trend which had already been noted at the end of the two previous measures of 1969 and 1973, regarding slaughter and non-marketing. It was found at that time that the quantities of milk produced increased continually and parallel to the non-marketing and slaughter measures implemented by the Commission.

This trend should probably be attributed to genetic and technical progress in stock-farming, which is due to cross-breeding producing animals particularly suited to milk production (more widespread use of genetic selection and of artificial insemination), to the gradual eradication of diseases affecting cattle, to the advent of new techniques concerning the composition and amount of forage, ensilage, stalling of cattle and milking, and above all to the relationship, which is always important, between the (guaranteed) price of milk and the cost of imported feedingstuff (soya)⁽³⁾.

(1) OJ No L 252, 8. 10. 1969, p. 1.

(2) OJ No L 141, 28. 5. 1973, p. 18.

(3) The general information is taken from 'Green Europe — Newsletter on the common agricultural policy', November 1979, published by the Agricultural Information Service, DG VI, No 166.

Even if the aim of limiting milk production seems far from being realized, especially in certain dairy regions, it should nevertheless be borne in mind that the measure has not failed to have other effects. First and foremost, the measure has helped to remove a number of relatively elderly people from farming. Special provisions have moreover been made for this purpose: thus, in accordance with certain special detailed rules, a farmer can receive both the non-marketing premiums and the premium granted under the provisions of Directive 72/160/EEC.

The measure has also played a part in improving the structure of milk production in certain regions: it seems that, very often, in the regions of the Community where pasture is cultivated, such measures leave behind them a greater degree of specialization; whilst some holdings abandon dairy farming, others adopt it more intensively. Very frequently, the number of dairy cows has either stabilized at the level prior to the measure or even increased slightly, whilst the remaining dairy holdings use more modern production techniques and achieve better results. In this sense, a reform of the dairy production structures is achieved. Around 30 % of the total number of applications in fact relate to herds of between five and nine dairy cows.

3.3. REASONS FOR THE LOW IMPACT

It is clear that this measure, as the Commission conceived it, was not intended to have a widespread, indiscriminate effect. It was merely one of a number of measures in the Commission's 1977 to 1980 programme for gradually restoring the balance on the dairy market.

The factors which have played a part in lessening the impact of the measure are many. Apart from the difficulties, mentioned above, in the implementation of the system of premiums, the following reasons may be pointed to in particular:

— First and foremost is the favourable relationship for the producers between the price of

milk, which is virtually guaranteed, and the cost of concentrated forage.

Dairy farming, unlike cattle farming for meat production, provides a regular income. The best way of making dairy production profitable on a holding (especially in the case of dairy production independent of land) is to increase production through modern techniques and to add to the number of cows. The consequences of these practices are obvious. Thus, those who were particularly encouraged to use the premium scheme were farmers who had already decided to give up dairy production: i.e. above all, elderly farmers and those whose holding and herd were too small. The cases of Denmark and Ireland where, according to the Commission, the average size of the herds belonging to applicants for the premiums was above the national average, constitute two notable exceptions.

In view of the need to use Community funds as effectively as possible, it would perhaps be desirable to give a better definition of the category of potential recipients of this premium by concentrating certain additional financial advantages on both the elderly farmers and the small holdings. This would make it possible to exclude from the premium certain large-scale farmers who in the past have sometimes taken advantage of the fact that this measure was spread over four years by increasing the number of productive animals on which the premium is calculated, before making their application.

- Secondly, as the Commission acknowledges, the premium does not offer enough of an incentive either in its amount or, especially, in the way it is paid. It would perhaps be more useful to replace the two or three payments spread over a number of years with a premium in the form of a monthly allowance.
- Lastly, the premium is a temporary aid, payment of which is spread over only five years. As the Commission is moreover aware, its effect is liable to be off-set by high rates of inflation; it offers no guarantee of a long-term income (see above), unless of course a farmer manages to combine it with the provisions of Directive 72/160/EEC, as laid down in Article 2 (3) and

(4) of Regulation (EEC) No 1078/77. But as these provisions have had only limited application, this situation is not likely to arise.

At present, the Court is studying the system of premiums for suckler cows which, like the other measures in the milk sector, also has an influence on dairy production.

CHAPTER 4

CONCLUSIONS

4.1. The system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds, set up by the Community in 1977 and similar in some respects to the two systems of premiums which had been adopted in 1969 and 1973, has encountered certain difficulties in its application in the Member States.

These difficulties have centred firstly on identifying the cattle giving entitlement to the premiums. Not all recipients have complied with the rules as to marking with an ear-tag those animals which give entitlement to the premium and which are kept on the holding during the non-marketing or conversion period, and in certain cases this has facilitated substitution.

Moreover, it has often been difficult to determine the appropriate number of dairy cows.

In one Member State, the Court noted an incorrect application of the equivalence established by the Commission between a kilo of milk and a litre of milk. It is true that the Article in question was, for practical reasons, establishing a purely conventional equivalence between a weight and a volume of milk. In another Member State, it was observed that applicants for premiums who at the time of application stated that they no longer farmed any agricultural area, had in fact disposed of, leased or sold their land, before lodging their application, to neighbours or relatives, who were usually dairy farmers, a practice which is not in keeping with the spirit of the provisions of Article 2 (3) and (4) of Regulation (EEC) No 1078/77.

4.2. National checks at the recipients' holdings differ considerably in their extent and their frequency. All too often the national administrations

do no more than carry out checks on the basis of files.

Certain national administrations have tried to give a more specific interpretation to the provisions of Article 6 (2) of Regulation (EEC) No 1078/77, which govern the use of agricultural areas in the event of the partial transfer of dairy holdings.

One national administration, following the discovery of a practice diverging from Community provisions, endeavoured to give a specific interpretation to the obligation to slaughter cattle immediately (Article 8 of Regulation (EEC) No 1391/78) and to enforce that obligation.

4.3. The identity card has proved too difficult to use, both for the applicants for the premiums and for the various intermediaries called upon to fill in its sections. The Commission and the Court found that these cards were incompletely or incorrectly filled out.

All too frequently the national administrations do not check them when they are sent in, but plan to do so when the balance of the premium is paid.

4.4. The measure, which has lasted almost four years, has had a limited effect on the quantities of milk produced, which have risen steadily. The Commission's reports on the effects of Regulations (EEC) No 1975/69 and (EEC) No 1353/73, slaughter and non-marketing measures, confirm this trend.

This is due to technical advances in breeding dairy cattle and also to the fact that in various regions farmers have few alternatives to dairy farming and are reluctant to give up a steady income, even though it entails strenuous work.

4.5. On the other hand this measure has helped, especially in regions where small herds were the rule and in particular in Germany, to reform the structure of production, in so far as it has had the most impact on small producers owning between five and nine dairy cows.

The text of the preceding observations was adopted by the Court at its meeting of 14 April 1983.

Luxembourg, 5 May 1983.

For the Court of Auditors

Pierre LELONG

President

ANNEX

COMMISSION REPLIES

to the report of the Court of Auditors on the implementation of Regulation (EEC) No 1078/77, as amended by Regulation (EEC) No 1041/78, introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds

1. In 1977 the Council, acting on a proposal from the Commission after consulting Parliament, adopted a series of measures to improve the balance of the milk and milk products market.

The introduction of a co-responsibility levy was accompanied by measures to increase the market for milk and milk products (Regulation (EEC) No 1079/77) and the introduction of non-marketing and conversion premiums to encourage farmers to stop producing milk. These premiums were available only for a limited period of time and were withdrawn in 1980.

2. Naturally, payment of these premiums was subject to certain criteria and conditions. The Court of Auditors' report sets out clearly the problems encountered in laying down criteria and monitoring their implementation and the difficulties often found in applying measures designed to grant individual producers a particular form of aid whose amount depended on the type of holding. When these premiums were introduced, the Community and the Member States had insufficient experience of the conditions involved, which were different from those created previously by Regulations (EEC) No 1975/69 and (EEC) No 1353/73.

Improvements were made to the control measures on the basis of experience gained in the first year of operation.

3. The Member States are responsible under Community legislation for monitoring the granting of premiums to farmers. Consequently, the Commission issued Regulation (EEC) No 1307/77 (detailed rules on the granting of premiums), which was subsequently replaced by Regulation (EEC) No 1391/78.

The following additional measures were also taken :

- the Management Committee for Milk Products carried out an investigation into the detailed rules on the basis of working documents,
- working groups of representatives of the appropriate national authorities were set up to consider problems arising from the granting of these premiums.

4. Despite the efforts of the Commission and the Member States, there are still difficulties in the implementation of premiums at national level, as the Court has noted.

During the procedure for clearance of the accounts, the Commission will look again at those cases where failure to carry out the controls provided for by Community rules has resulted in manifestly unjustified expenditure.

5. Some of the problems mentioned in the Court's draft report were considered by the Commission when the measures and the implementing rules were introduced in 1977 and when the implementing rules were revised in 1978. No easy solutions to the problems of the ratio between farm area and milk production and the replacement of high-yield cows were found that could be applied without other criteria whose implementation would have been still more difficult to monitor.

6. As the Commission has already pointed out in its reports on the implementation of these premiums, further encouragement to reduce the growth of milk production can come only from relatively short-term measures. Initially the Commission intended to follow the practice established by Regulations (EEC) No 1975/69 and (EEC) No 1353/73 and allow only a short period for applications for premiums. However the Council twice decided to extend the period during which applications could be submitted and so the measure lost its short-term nature. Extension of the measure also encouraged certain farmers to take advantage of this system to pass farms on from one generation to another, which was unlikely to achieve the hoped for reduction in milk production. That is why in 1980 the Commission (successfully) urged the Council not to extend these premiums any further.

It nevertheless remains the case that the general effect of the premiums has been helpful in that it has restrained the growth of milk production and improved agricultural structure by reducing the number of small producers.