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II

(Preparatory Acts)

COURT OF AUDITORS

SPECIAL REPORT

on the contract measures for the expansion of markets for milk and milk products financed
by proceeds of the coresponsibility levy

(86/C 127/01)

(Observations, Article 206a, paragraph 4, of the EEC Treaty)

This report was adopted by the Court of Auditors at its meeting of 20 February 1986. The draft report had been sent on 8 November 1985 to the Commission, whose replies are attached.

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1. INTRODUCTION

Background

1.1. In 1977 the Council of Ministers decided to introduce a coresponsibility scheme as a part of a package of measures designed to reduce the chronic imbalance between production and consumption of milk and milk products. Council Regulation (EEC) No 1079/77 of 17 May 1977⁽¹⁾ provides on the supply side for a uniform coresponsibility levy to be paid by milk producers on all deliveries to dairies and certain farm sales of milk products, and, on the demand side, for specific measures linked to the levy to encourage:

- (a) the expansion of markets within the Community;
- (b) the expansion of markets outside the Community;
- (c) the search for new outlets and improved products⁽²⁾.

1.2. The adoption of the coresponsibility scheme introduced into the management of the milk sector a principle which the Commission had been proposing openly since 1973⁽³⁾, namely that the producers of milk should be more directly associated with the measures to dispose of their surplus production, and, by means of the levy, with the financing of those measures. In addition to the payment of the coresponsibility levy by milk producers, they and milk processors, through their representatives at Community level (COPA, COGECA and ASSILEC), participate in the preparation and execution of the coresponsibility expenditure programmes by means of their membership of the Coresponsibility Group, a special consultative group established by the Commission in 1977.

1.3. The specific measures financed from the proceeds of the coresponsibility levy can be divided into two groups, as shown in Table 1 of Annex I:

- (a) '*existing measures*': measures for disposing of surpluses which were already being used by the Commission before the coresponsibility scheme was introduced: Table 1 shows that to the end of 1984 these accounted for some 89 % of actual expenditure of levy proceeds;

- (b) '*new measures*': measures which were adopted after the introduction of the coresponsibility scheme, to be financed by the levy: these accounted for approximately 11 % of actual expenditure of levy proceeds to the end of 1984.

1.4. The Court of Auditors has already presented observations on most of the '*existing measures*'⁽⁴⁾. The present report, therefore, while dealing with certain issues which concern all the expenditure measures financed by the coresponsibility levy, is specifically directed to observations on the management and effectiveness of the '*new measures*'. Unlike the existing ones, these measures are of particular interest in that they are carried out by means of contracts between the Commission and organisations in the Member States, with management responsibility for the measures divided between the Commission and the intervention agencies. This arrangement follows neither the normal procedures for the management of EAGGF Guarantee expenditure nor those for managing the Commission's contracting activities in other areas.

Objectives of the audit

1.5. The overall objective of the audit of contract measures financed by the coresponsibility levy was to determine whether:

- (a) the expenditure on the contracts has been incurred in a lawful and regular manner in accordance with the regulations in force;
- (b) the financial management of the contract measures is sound.

1.6. More specifically, particular objectives were to determine whether:

- (a) budgetary and accounting procedures and presentation of coresponsibility contract expenditure are in conformity with the financial regulations in force;
- (b) the systems of management and control at the two levels of the Commission and the intervention agencies are efficient and effective;
- (c) adequate arrangements exist for evaluating whether the measures concerned have achieved their objectives.

⁽¹⁾ OJ L 131 of 26. 5. 1977.

⁽²⁾ Article 4(2) of Regulation No 1079/77, OJ L 131 of 26. 5. 1977.

⁽³⁾ See, for example: 'Improvement of the Common Agricultural Policy' Commission Memorandum to the Council, doc. COM(73) 1850 of 31. 10. 1973 ('The Lardinois Memorandum'), and 'Stocktaking of the Common Agricultural Policy' Commission Communication to the Council and to the Parliament, doc. COM(75) 100 of 26. 2. 1975.

⁽⁴⁾ For school milk see the Court of Auditors' Annual Report concerning the Financial Year 1979, OJ C 342 of 31. 12. 1980 paragraphs 4.70 to 4.79.

For the disposal of skimmed-milk powder see the Court of Auditors' Annual Report concerning the Financial Year 1979, OJ C 342 of 31. 12. 1980 paragraphs 4.87 to 4.96.

For the disposal of butter see the Court of Auditors' Special Report on the Sales of reduced-price butter within the Community, OJ C 143 of 7. 6. 1982.

2. DESCRIPTION OF CORESPONSIBILITY CONTRACT MEASURES

Outline description

2.1. Expenditure on coresponsibility contracts may be considered under the following headings:

- (a) promotion and publicity measures within the Community;
- (b) market and technical research within the Community;
- (c) promotion and publicity, technical assistance and research outside the Community;
- (d) improvement of milk quality.

Annex III sets out the regulations between 1978 and 1985 governing these measures.

Promotion within the Community

2.2. The promotion and publicity measures within the Community are the most important ones financially. They consist of annual programmes of generic advertising and sales promotion of milk, butter, cheese, cream and other milk products run by organisations representing the dairy sectors in each Member State. The maximum Community contribution is 90 % ⁽¹⁾ of the amount the organisation spends over and above the average annual expenditure of the same kind incurred by the organisation in the period 1975-77, up to a limit imposed by the total funds allocated according to an agreed 'key' (see paragraph 3.14) to the Member State concerned.

Research within the Community

2.3. The market and technical research measures within the Community cover a wide range of research activities by research institutes and dairy firms. The first regulation in this area, Commission Regulation (EEC) No 723/78 of 10 April 1978 covered both market and technical research proposals, but from Commission Regulation (EEC) No 2935/79 of 20 December 1979 onwards, encouragement has been directed to research primarily of a technical or scientific nature into new or

improved products and packaging, nutritional aspects of the consumption of milk and its constituents, and increased use of liquid skimmed milk for animal feed. The maximum Community contribution is limited to 75 % of the expenditure incurred.

Promotion and other measures outside the Community

2.4. The promotion and publicity, technical assistance and research measures to expand markets outside the Community have provided for a wide range of activities, including the search for new markets, new and improved products for export and packaging to facilitate transport and preservation of products, research into nutritional aspects of milk and milk product consumption, and market surveys. Finance has been provided for generic promotion and advertising, the improvement of marketing conditions, and consumer information in favour of milk products of Community origin. On the technical assistance side, under certain conditions, know-how necessary for the establishment of factories or plants used for the manufacture or processing of milk products has been provided.

2.5. Only proposals which are not liable to prejudice existing Community trade in milk products are taken into consideration. The maximum Community contribution is normally limited to 75 % of expenditure incurred, but for generic promotion activities this percentage has ranged in some of the regulations between 60 % and 70 % and up to 90 % in Commission Regulation (EEC) No 1024/78 of 19 May 1978 for actions proposed by a specially constituted group representing the milk sector of the Community.

Improvement in milk quality

2.6. The measures designed to improve the quality of milk within the Community include actions relating to the quality control, or bacteriological content, of milk, testing in relation to health aspects of raw milk and the control of mastitis, the testing of milking machines, the counselling of individual milk producers on questions of hygiene and quality control, counselling on the collection and transport of raw milk, training of personnel for quality control and counselling, and the setting up of co-operative milk collection centres, if necessary with refrigeration facilities. In justified exceptional cases this last aid may be granted to single farms. Also in properly justified cases, aid may be given for the examination of the composition of raw milk and for equipment for the transportation of samples.

⁽¹⁾ Since 1983 the regulations have also provided for the purchase of refrigerators and refrigerated dispensers under certain conditions. The Community contribution towards the cost of these is 50 %.

2.7. Community financing is limited to 90 % of expenditure incurred. Commission Regulations (EEC) Nos 1271/78 of 13 June 1978, 2936/79 of 20 December 1979 and 593/83 of 14 March 1983 covered all Member States, but the measure was restricted to Italy and Ireland for Commission Regulation (EEC) No 1079/81 of 23 April 1981, plus Greece for Commission Regulation (EEC) No 272/82 of 4 February 1982, Commission Regulation (EEC) No 283/84 of 1 February 1984 and Commission Regulation (EEC) No 615/85 of 8 March 1985.

Financial information

2.8. Table 2 in Annex I sets out the amounts allocated to the new measures by the Commission, as contained in the Communications to the Council. This shows that from 1977 up to and including the milk year 1986/87 the Commission has allocated a total of 498,4 Mio ECU of which 293,4 Mio ECU (58,9%) is for promotion measures within the Community. The amounts actually approved for expenditure by the Commission on individual contracts under the various regulations, following the evaluation of proposals submitted by organisations in the Member States, have normally been very close to these overall allocations.

2.9. Table 1 shows that between 1977 and the end of 1984 total payments amounted to 307,6 Mio ECU. The payments in this table, however, cannot be compared directly with the allocations in Table 2 because the payments relate to budget years while the allocations concern milk years. Also, payments in respect of these actions are spread over a number of years. The Commission does not prepare overall information showing commitments outstanding. However, the 307,6 Mio ECU of cumulative payments to end 1984 may be compared with the total cumulative allocations made by the Commission up to end 1984 (columns 1 to 7 of Table 2, which includes the 1985/1986 milk year proposals) amounting to 458,4 Mio ECU, and the total cumulative amounts approved by the Commission to the end of 1984 for specific contract proposals which amounted to approximately 380 Mio ECU⁽¹⁾.

3. OBSERVATIONS

Budgetary presentation and management

3.1. The Court of Auditors has criticised previously⁽²⁾ the budgetary presentation and management of expenditure on these contract measures. The central problem is that this type of expenditure is different from the usual EAGGF Guarantee expenditure provided for in Council Regulation (EEC) No 729/70 of 21 April 1970 and is unsuited to the special provisions of the Financial Regulation applicable to the EAGGF Guarantee Sector⁽³⁾. Contracts under the various measures are for a normal duration of one or two years from the date of signature, with possibilities for extension where justified, and payment profiles may extend over five years or more. Expenditure under these measures is thus of a multi-annual nature, which is more appropriately dealt with in the budget by differentiated appropriations rather than the non-differentiated appropriations provided for in the EAGGF Guarantee section of the budget.

3.2. The current procedure is that:

- (a) when the Commission has approved the list of proposals which are to be contracted, but before contracts are signed, the Commission carries out an internal check to ensure that the global expenditure in respect of each measure is within the agreed programme limits;
- (b) the Financial Controller approves the model contracts, but does not later approve each individual contract when it is signed;
- (c) the intervention agencies request funds for payments to contractors as part of the normal procedure of requesting advances under Article 96 of the Financial Regulation: at this point the Commission makes a provisional global commitment, approved by the Financial Controller: this is the first accounting entry which reflects expenditure on the contracts;
- (d) when the Member States declare that the expenditure has been incurred, a commitment is made to the budgetary item and the expenditure is recorded as a payment, with the approval of the Financial Controller.

⁽¹⁾ This figure is calculated by adding together the ECU amounts available under regulations for which the Commission had approved lists of contract proposals before 31. 12. 1984.

⁽²⁾ Annual Report concerning the Financial Year 1979, paragraph 4.42, OJ C 342 of 31. 12. 1980.

⁽³⁾ Financial Regulation of 21. 12. 1977, Articles 95-101, OJ L 356 of 31. 12. 1977.

3.3. Thus, when the Commission enters into a legal commitment to incur future expenditure by signing a contract⁽¹⁾, no corresponding commitment is proposed, approved by the Financial Controller, and entered in the accounts. This is not in accordance with Articles 32 to 34 of the Financial Regulation. Contrary to the view of the Commission⁽²⁾, this situation is not covered by the provisional global commitment established under Article 96 of the Financial Regulation which is designed to authorise the payment of advances to Member States so that they can make the normal EAGGF Guarantee intervention and export refund payments and to block the corresponding appropriations.

3.4. As a result of the current procedures, the accounts of the Community show only the expenditure declared, i.e. total payments actually made during the financial year, but reflect nowhere the expenditure committed.

3.5. Further, the current procedures do not enable the Commission to carry forward appropriations committed in one financial year in respect of individual contracts but not paid out during that year. Nor does the Commission include either in the body of the balance sheet or as a note to it the amounts outstanding and still to be paid in respect of coresponsibility contracts signed in the name of the Commission.

3.6. The Commission, therefore, has adopted budgetary management procedures which conform neither to the normal regulatory provisions governing EAGGF Guarantee expenditure, nor to the general provisions covering contracts in the Financial Regulations. This situation needs to be reviewed. If, for example, the intervention authorities were given the authority to sign the contracts in their own name rather than that of the Commission (see paragraphs 3.34 and 3.35) and had full responsibility for managing the contracts; then the procedures could be made to conform to the normal EAGGF rules.

Status and role of the Coresponsibility Group

3.7. The Coresponsibility Group was established so that milk producers and processors — the milk industry — could be directly involved in the procedures for managing the coresponsibility scheme. The establishment of the Group was seen, particularly by the indus-

try, as a counterpart to the levy. It has a much more significant role than the Management Committee in the formulation of the coresponsibility measures.

3.8. The Coresponsibility Group is not specifically referred to in Regulation No 1079/77 or any of the individual regulations. Its role is defined in two letters from the Commission to the Presidents of COPA, COGECA, and ASSILEC.

3.9. The Group is composed of milk industry representatives at Community level and Commission officials, with joint chairmen from the Commission and the industry — but without any representation of consumer interests. It is consultative, but the procedure is such that matters on which there is initial disagreement between the Commission and the industry are generally resolved by a mutually acceptable modification to the Commission's proposal.

3.10. The Group plays an influential part in the preparation of the programme that is sent by the Commission to the Council under the terms of Article 4 (3) of Regulation No 1079/77, in the allocation of funds between the Member States, and in the preparation of the individual regulations. It also is consulted by the Commission on the selection criteria to be used when evaluating proposals, and on the list of proposals to be approved/rejected for contracts under the measures.

3.11. Neither the Commission nor the industry representatives see any need to formalise the status of the Group. It is seen as a flexible and effective means of enabling the Commission to consult industry representatives, and for the latter to influence how coresponsibility funds are used.

3.12. No evidence was found during the audit to suggest that the involvement of the Group diminishes the Commission's authority to take decisions concerning the management of the milk market. It is evident that the industry representatives have been able to influence significantly the Communications to the Council on the future programmes, the texts of regulations and the selection criteria for evaluating proposals. In a number of instances they have been able to modify the amounts proposed initially by the Commission for the individual measures. The Commission on the other hand, has withstood pressure from the industry side for the creation of a separate coresponsibility fund, and has strengthened its position over the years in favour of the use of coresponsibility revenue to finance the general EAGGF expenditure on the milk sector.

⁽¹⁾ Since 1983 the contracts have been signed by the intervention agency *on behalf of and in the name of* the Commission: see paragraph 3.35 below for further details.

⁽²⁾ See the Commission's reply to the Court's comments in the Annual Report concerning the financial year 1979, paragraph 4.42, OJ C 342 of 31. 12. 1980.

3.13. It was noted, however, that in all Member States there is a national coresponsibility group representing milk producer and processing interests which reviews proposals, assigns priorities and, in some instances, drafts the 'reasoned opinion' which the intervention agency submits to the Commission. In many cases, industry representatives on these groups are also members of the Coresponsibility Group at Community level. These groups are not provided for in the regulations, and in some Member States neither the intervention agency nor the Ministry of Agriculture is represented on them. While there are no objections in principle to this extension of the coresponsibility principle, the involvement of these groups should not be a substitute for the intervention agencies exercising their responsibilities (as described below in paragraphs 3.18 and 3.25) under the regulations. The Court of Auditors considers, therefore, that the role of these groups should be defined, and ground rules for their operation agreed.

Allocation of funds

3.14. The procedures for the allocation of the overall amounts set out in the Commission's Communications to the Council vary according to the different types of measure. For the promotion measures within the Community, the Commission and the Coresponsibility Group have agreed a 'key' allocating the funds to each Member State in accordance with their shares of Community population, milk consumption and production. For milk quality improvement measures an adjusted version of the key is used, giving particular emphasis to Italy, Ireland and Greece, where milk quality problems are greater. For the other measures, the Commission seeks to allocate the funds on a Community basis in consultation with the Coresponsibility Group, according to specific selection criteria agreed for each regulation, while at the same time aiming at a 'harmonious distribution'⁽¹⁾ between the Member States. Ensuring that each Member State receives what is perceived to be its 'fair share' is, therefore, an important part of the contracts system.

3.15. The applicants for contracts under the different regulations cover a wide range of public, semi-public and private sector organisations and firms involved in the milk sector. It is inevitable, given the involvement of industry in the decision-making procedures, that, both at national and Community level, potential beneficiaries are involved in advising which contract proposals should be accepted or rejected.

3.16. In these circumstances, the Commission has an important role to play in ensuring firstly, that the contracts approved, both individually and taken together, reflect Community priorities rather than national ones only, and, secondly, that applicants' proposals are reviewed in an objective manner.

Procedure for awarding contracts

3.17. Normally, where public funds are used to finance contracts, the procedure by which contracts are awarded is also important in ensuring objectivity and the best use of those funds. Competitive tendering and adjudication, as laid down for Community Institutions in Articles 50 to 58 of the Financial Regulation, and Article 94 paragraphs 4 and 5 for research contracts, form an important component of this.

3.18. For the coresponsibility contracts, the procedure, in outline, is as follows:

- (a) regulations are published by the Commission in the Official Journal calling for proposals in respect of the individual types of measures;
- (b) proposals are sent by applicants to the intervention agency, which checks that they conform to the terms of the regulations and prepares a 'reasoned opinion' on the proposal: in this the agency has been helped to a considerable extent by the national coresponsibility groups;
- (c) the agency sends the proposals and the reasoned opinions to the Commission, which reviews them and submits them to the Coresponsibility Group. The Group advises which ones should be accepted or rejected, and this advice is passed to the Management Committee;
- (d) the Commission formally approves the list of accepted/rejected proposals, after which contracts are concluded, in the name of the Commission (see paragraph 3.35).

3.19. The result of this procedure, therefore, is that the Commission is legally committed to the contract without having gone through the normal procedures for public tendering or adjudication set out in the Financial Regulation—and, as pointed out in paragraph 3.2 (b), without the approval of the Financial Controller on the individual contract terms and conditions. The procedure described above is particular to the coresponsibility contracts.

3.20. For the measures concerned with research, improvement in milk quality and promotion outside the Community, there are normally more proposals than funds available, so that there is some element of choice. For promotion within the Community, how-

⁽¹⁾ See, for example, paragraph 5(j) of Document VI/4562/78 of 31. 8. 1978 concerning market research projects, Commission Regulation (EEC) No 723/78.

ever, the situation is different. With these measures there is a high degree of national coordination of the actions to be carried out and the funds available are known in advance from the allocation 'key'. Accordingly, several Member States submit only one proposal from a central organisation, including the names of the principal subcontractors who carry out the publicity and promotion actions on its behalf. In most cases the proposals submitted are accepted virtually unchanged. This procedure also does not involve competitive tendering; rather it reflects the situation where these measures are essentially national promotion programmes subsidised from Community funds. The Commission has little option but to finance the proposals substantially as presented up to the amount allocated to each Member State.

3.21. In addition, in view of the close involvement of the industry, (including potential beneficiaries) in the decision-making process, these procedures do not seem to provide a sufficient guarantee of objectivity and of the best use of Community funds. They should therefore be reviewed.

Systems and procedures for managing the coresponsibility contracts

System of dual management

3.22. As noted above the distribution of responsibility for management and control of the contract measures differs considerably from the normal arrangements for managing EAGGF Guarantee expenditure, as defined in Regulation (EEC) No 729/70 and Title VIII of the Financial Regulation. Under the normal arrangements, the day-to-day execution and management of market intervention measures is devolved to intervention agencies in the Member State: as far as the coresponsibility contract measures are concerned, direct management responsibility is divided between the Commission and the intervention agencies.

3.23. Where management responsibility is shared or divided difficulties can easily arise, so it is essential that the respective roles be defined as clearly as possible and fully understood by all concerned. This is particularly so when the procedures are not the normal ones to which the parties are used. The system in operation needs to be monitored thoroughly so that weaknesses can be identified and remedied.

3.24. The procedures to be followed and the responsibilities of the Commission and the intervention agencies are set out in the individual regulations. These are supplemented by working documents prepared by

the Commission in consultation with the Coresponsibility Group covering such matters as the selection criteria to be applied when choosing proposals to finance under the individual regulations, and the maximum reimbursement rates for research personnel costs, travel costs, and so on.

3.25. Paragraph 3.18. above sets out the current procedure up to the point where the Commission approves the list of accepted and rejected proposals. Thereafter:

- (a) the intervention agency concludes and signs contracts on behalf of and in the name of the Commission using standard forms provided by the Commission: before 1983 the Commission signed the contracts directly;
- (b) the intervention agency monitors and manages contract execution, undertaking interim control visits and paying instalments of the contract amount against securities lodged in a recognized manner: all contract amendments must be approved by the Commission, which also deals with queries from the agencies concerning individual contracts;
- (c) at the end of the contract, following presentation of the final report, the intervention agency checks the content of the report and that the contract terms and conditions have been met and, if satisfied, makes the final payment and releases the securities: a certificate on contract performance is sent by the agency to the Commission, together with a copy of the report.

3.26. In 1981, following a report on the management of the coresponsibility measures by the Financial Controller, and again in 1983, changes were made to the division of responsibilities in the light of experience. The purpose in doing this was to improve the efficiency of the procedures by devolving more of the detailed management to staff in the individual intervention agencies in the Member States.

3.27. Nevertheless, the Court of Auditors found that the dual management system still has several weaknesses which are described in the following paragraphs.

Different applications of the Regulations

3.28. Since 1981 the regulations have provided that the agencies are 'responsible for ensuring the observance of the agreed conditions by means of on-the-spot checks' ⁽¹⁾. This, taken together with the provisions for possible deferral of instalment payments ⁽²⁾ strongly

⁽¹⁾ See, for example, Article 6(3) of Commission Regulation (EEC) No 326/81 of 6. 2. 1981, OJ L 35 of 7. 2. 1981.

⁽²⁾ See, for example, Article 7 of Commission Regulation (EEC) No 326/81 of 6. 2. 1981, OJ L 35 of 7. 2. 1981.

implies that on-the-spot checks should be carried out at interim stages of the contract. The Court found, however, that in one Member State no on-the-spot interim checks whatsoever were carried out, whereas in another there is at least one interim visit per contract, and indeed in a third, interim visits occur as and when considered necessary.

3.29. Although the regulations provide for the intervention agencies to verify all the details in the final report of the contractor, some agencies wrongly considered that they were responsible for verifying the financial part, and that the terms and conditions had been respected, leaving the Commission to examine the results of the measures. Indeed, some of them waited for the receipt of a letter from the Commission saying that it had no comments on the technical part of the report before making final payments and releasing securities, although there was no basis in the regulations for this. Unfortunately, as the Commission services have not had sufficient resources to be able to review thoroughly all the reports of the results of the measures, there are contractors' reports which have been reviewed thoroughly neither by the intervention agency nor by the Commission.

3.30. In January 1985 the Commission sent a communication to the intervention agencies reminding them that they must examine both the financial and technical parts of the reports, and that they should bring measures to a close of their own accord. While welcoming this, the Court considers that such a communication should have been sent much earlier.

Detailed guidelines

3.31. The procedural descriptions in the regulations, supplemented by the various working documents issued by the Commission do not provide a sufficiently detailed and comprehensive set of operating guidelines for the intervention agencies. These guidelines should cover, *inter alia*:

- (a) definitions of what is required in proposals under 'statements of expected results', 'itemised breakdown of costs' and 'the corresponding financial plan'⁽¹⁾: so far contractors have received no guidance and many of the proposals examined provided inadequate information under these headings;
- (b) the depth and scope of the evaluation of proposals carried out by intervention agencies, so that it is not necessary, as at present, for the Commission to reopen the evaluation when the proposals are submitted to it;

- (c) the procedures that follow from e.g. Article 7.1.(c) of Regulation (EEC) No 326/81 of 6 February 1981 for checking whether requests for instalments are justified by the state of advancement of the work;
- (d) the depth and scope of interim control visits and final verifications, perhaps with standard verification programmes: such audit tools are feasible and helpful for a consistent approach to these visits;
- (e) the basic documentation that should be maintained on the file as evidence that the required controls have been carried out at each stage of the contract, from initial evaluation of the proposal to final verification: the audit found that there is a lack of evidence particularly concerning evaluation of proposals, in both Commission and intervention agency files.

3.32. In addition, any selection criteria approved by the Coresponsibility Group and the Commission which include such matters as allowable costs, should be formally communicated to contractors so that they can prepare proposals and execute contracts in full knowledge of the terms and conditions.

3.33. The Commission services with responsibility for the management of the measures should ensure that the intervention agencies are carrying out the duties and performing adequately the management and control procedures expected of them by the Commission and required by the regulations. It is not sufficient for the Commission to rely on the clearance of accounts procedure or examinations by the Financial Controller for this.

Commission involvement too detailed

3.34. The Court's auditors were surprised to see the level of detail into which the Commission's officials still go in respect of individual proposals and contracts, despite the efforts to devolve more and more to the intervention agencies. For example, although in 1983 the intervention agencies were empowered to sign the contracts, they do so in the name and on behalf of the Commission, so that all amendments to the individual contracts have to be formally approved by the Commission.

3.35. Since 1983 the regulations state concerning contract signature: 'The competent authorities (i.e. the intervention agencies) shall conclude contracts for the measures selected with the parties concerned'⁽²⁾. This

⁽¹⁾ See, for example, Article 4 of Commission Regulation (EEC) No 270/82 of 4. 2. 1982, OJ L 28 of 5. 2. 1982.

⁽²⁾ See, for example, Article 5(3) of Commission Regulation (EEC) No 595/83 of 14. 3. 1983, OJ L 71 of 17. 3. 1983.

implies — and it is the view of at least one intervention agency — that the agency rather than the Commission should be the contracting party. By having the agency sign in the name of and on behalf of the Commission the way is opened to potential confusion, not only in determining exactly where management responsibility lies in the case of a dispute between the Commission and the intervention agency, but also for the contractor, who is faced in effect with two contracting parties.

3.36. This involvement with detail reduces the time available for dealing with overall management questions, and the Court considers that the Commission should be able to ensure that these contract measures reflect Community policy interests without involving itself in detailed day-to-day management questions on individual contracts.

Duplication of effort

3.37. Duplication of effort and delays in processing documents are inevitable in the system described above. It was in recognition of this that the 1983 changes were made, but in the event, the Commission has found, for example, that it still needs to evaluate individual proposals in much the same way as before, including seeking additional information from applicants, which, under the new rules, should have been obtained by the intervention agencies.

Conclusions on the dual management system

3.38. Some of the weaknesses and inefficiencies described above could be overcome by clarifying the regulations and developing detailed guidelines and some standardised procedures. Also, good management procedures introduced in one Member State could be passed on to others if the officials of the agencies concerned were to meet periodically, together with those responsible in the Commission, in order to share experiences and resolve common difficulties.

3.39. More fundamentally, however, the Court considers that the Commission should not be involved in the direct management of this expenditure. The regulatory framework is ill adapted to it, and when responsibility is shared as it is for these contracts, difficulties are bound to be encountered. The Commission should, therefore, consider alternative arrangements which would pass the entire responsibility for the management of the contracts to the intervention agencies within the framework of the priorities and criteria decided upon on a Community basis. The Commission's role should be one of overall monitoring and supervision of the intervention agencies' execution of their responsibilities.

Utilisation of funds and payment profiles

3.40. An analysis of the payments made by intervention agencies to contractors under the individual regulations as set out in Tables 3 and 4 in Annex I, shows that:

- (a) it is not unusual for payments to be spread over three or even four years for the one-year contracts for promotion in the Community, and five years or more for the other contract measures, which are generally of two years duration: at the end of 1984 there were some contracts still open under regulations adopted in 1979;
- (b) the percentage utilisation of the Community contributions varies according to the type of measure: very high rates of utilisation are obtained with the promotion contracts within the Community (up to 100 %), followed closely by improvement in milk quality measures (90-100 %); there is a wider spread for research within the Community (80-100 %) and some low utilisation rates for the measures outside the Community (down to 50 % and lower);
- (c) there are some variations in (i) payment profiles and (ii) utilisation rate patterns between Member States.

3.41. As far as the Court is aware, the Commission has not analysed systematically these payments data in order to identify the reasons for the above variations, which in part relate directly to weaknesses and inefficiencies in management procedures. Such analysis should form an integral part of the general management activity of the Commission services in this area.

Evaluation and reporting procedures

Reporting

3.42. The only reports which the Commission prepares on the implementation of the measures are:

- (a) the Communications to the Council on the programme for the forthcoming milk year;
- (b) final reports following completion of the actions under each regulation.

The former of these are very general documents, presenting overall progress as a basis for the proposed programme.

3.43. The final reports on each regulation are prepared by the Commission, primarily for the Coresponsibility Group and Management Committee. They are not submitted to the Council. To date, reports have been prepared on eleven regulations, up to Regulation No 1079/81. The first reports were brief summaries, but the later ones are more detailed and provide a useful description of what has happened. They do not, however, contain a comprehensive summary of the financial implementation of the regulations, comparing the amounts allocated and approved by Member State with the amounts actually spent. The Court considers that an important part of any report on the outcome and management of measures financed by Community funds should contain comparisons of actual expenditure with amounts approved for the measures.

Procedure for evaluating the contract measures

3.44. Paragraphs 3.22-3.41 have been concerned with evaluating the efficiency of the management and control procedures. The Commission's own evaluation of them has been restricted to an examination by the Financial Controller which was reported at the end of 1980 to the Commission, and an internal review in 1982 which included consultation with the Coresponsibility Group and the Management Committee. In each case amendments to the regulations resulted. Individual points concerning specific Member States made by the Financial Controller are followed up during the clearance of accounts procedure.

3.45. Before 1985 no systematic evaluations of the overall effectiveness of the measures in promoting the expansion of markets for milk and milk products were undertaken, nor were there specific evaluations of the regulations grouped under one of the four headings, promotion within the Community; promotion outside the Community; research; or improvement in milk quality. The final reports referred to in paragraph 3.42 summarize the results reported by contractors, but this does not constitute an evaluation. In many cases, contractor's reports provide unsatisfactory statements of results. In 1984, in an attempt to improve the quality of the results reported in respect of promotion within the Community, the Commission provided for up to 5% of the contract sum to be spent on market surveys to ascertain the effectiveness of the measures undertaken⁽¹⁾.

3.46. At the end of 1984, however, in the Ninth Communication to the Council concerning the programme for the utilisation of coresponsibility levy funds for the 1985/86 milk year⁽²⁾, the Commission proposed

to allocate 2,5 Mio ECU for a major evaluation of the effectiveness of the different measures for increasing the consumption of dairy products in the Community, especially butter. Reports resulting from this work were finalised during the second half of 1985, after the completion of the Court's audit. Evaluations of measures such as these should form an integral part of the management process and, indeed, they might be most effectively carried out by a special evaluation unit within the Commission.

3.47. As the results of the evaluation undertaken by the Commission in 1985 were not available during the audit, the Court itself undertook a study based on Eurostat data and on the audit of individual contracts. The results are set out below.

Effectiveness of the measures

3.48. According to the recitals to Regulation No 1079/77, the overall objective of the specific measures financed from coresponsibility levy proceeds is to encourage the expansion of markets. The Commission regulations setting out the individual measures do not provide more detailed objectives. Some of the measures are designed to have a more direct impact on the expansion of markets than others: thus publicity and promotion may be expected to influence consumption of milk and milk products more directly than the research measures into new products and those for the improvement of milk quality.

3.49. There are many factors apart from the measures under consideration which affect the consumption of milk and milk products. In particular, the following have a major influence:

- (a) price, in particular the movement of prices in relation to competing products (e.g. butter and margarine);
- (b) health considerations;
- (c) changing tastes; consumer attitudes;
- (d) the promotion of competing products: again, e.g. butter and margarine.

Isolating the impact of the different factors is difficult, and requires the use of sophisticated statistical and econometric techniques. Some efforts in this direction have been made by some contractors in relation to individual promotion actions, and the inclusion in Regulation No 2252/84 of provision for market surveys to measure the effectiveness of individual measures will strengthen this.

3.50. In the following paragraphs some general observations are set out.

⁽¹⁾ Article 1, Commission Regulation (EEC) No 2252/84 of 31. 7. 1984, OJ L 206 of 2. 8. 1984.

⁽²⁾ COM(84)675 final of 4. 12. 1984.

Trends in consumption of milk and milk products 1972-83

3.51. As a first, general step in considering the effectiveness of the measures, trends may be examined in the consumption of milk and milk products within the Community. Diagrams 1-5 in Annex II present data for the period 1972-83 for key milk and milk product headings. They show trends both before and after the introduction of the measures in 1978, in order to see whether there have been any significant changes since then. It should be noted that any such observed changes do not necessarily mean that there is a causal link between them and the measures.

3.52. The main points that emerge from these data are:

- (a) there has been no overall increase in per capita consumption of milk and milk products since the coresponsibility measures were introduced in 1978;
- (b) for products such as cream and cheese the upward trend observed since 1978 continues the rise that had occurred since 1972;
- (c) despite intensive butter promotion campaigns, per capita consumption has continued to decline since 1978 in all Member States except Ireland and the Netherlands;
- (d) the trends are not the same in all Member States: in some of them, however, for some milk products, there is a slight indication that trends may have marginally improved since 1978, for example fresh milk products, cheese and cream in the Federal Republic of Germany, France, the Netherlands and Belgium and Luxembourg.

Promotion within the Community

3.53. Many of the final reports of promotion contracts within the Community present only inadequate statements of results achieved, which do not assist an overall evaluation. It is evident from the more thorough ones, however, that some of the other factors affecting consumption have had an overwhelming effect during the period 1978-83. Thus, for example, increases in milk and butter prices in the UK, and changing social attitudes are given as the main reasons for the decline in fresh milk and butter sales there.

3.54. Nevertheless, the industry has argued strongly that generic promotion and product research are essential as counters to the market strength of competitors, especially for butter against margarine. It is argued that

without these measures, the observed trends would be worse. There is evidence from a few contractors' reports of short-term positive impacts of individual promotion actions, but they need to be sustained for lasting effect.

3.55. There is no evidence as to whether the level of funding for the various measures is optimal. The Court was informed by the national organisations in three Member States that more important than the level of funding was its timing and availability. All pointed out that serious disruption had been caused to their promotion programmes by the Commission in 1984 when, for budgetary reasons, the Commission held up for several months its decision to approve the proposal lists for promotion activities in 1984/85 already reviewed by the Coresponsibility Group and the Management Committee. The prospective contractors were not all able to fund their planned measures from alternative interim sources, leaving important gaps in the promotion activities.

Research

3.56. A wide range of research measures has been financed from coresponsibility funds. According to the Commission, experience has shown that, in general, research undertaken by research institutes was of a higher standard than that undertaken by dairy companies, and preference is now given to the former when giving new contracts.

3.57. The Commission has encouraged publication of useful work, and in each Member State a central office has been designated where copies of reports are available for consultation by interested parties. The accessibility of some of the research results is, however, limited by the fact that the reports are only available in the original language.

3.58. No information is available on the effectiveness of the research in expanding the markets for milk products. The Court considers that it is essential that the Commission carries out an evaluation of the extent to which the research undertaken since 1978 has led to new or improved products and packaging which have been successfully put on the market.

Improvement of milk quality

3.59. The main measures undertaken under the regulations concerned with the improvement of milk quality have been the purchase of various types of laboratory and testing station equipment, and producer counselling. In so far as such equipment has been successfully installed and is operating these measures have been positive. Many final reports present, for example, results of tests showing improvements in the quality of

milk supplies. It should be noted, however, that the Court was informed by some of the organisations involved that some at least of the investments financed from coresponsibility funds would have been carried out anyway, albeit over a longer period.

Promotion, technical assistance outside the Community

3.60. Evaluating the effectiveness of these measures is particularly difficult. The measures tend to consist of a large number of fairly small contracts with very specific activities, such as promotion of milk products in supermarkets or bringing dairy industry representatives from non-EEC countries to trade fairs in the Community. Statements of expected results in the proposals are often vague, and actual results in terms of expanding the markets for Community products not quantified. It is not feasible to isolate the impact of these measures on overall exports of Community milk products. Nonetheless, more could be done by contractors to identify the specific results obtained, e.g. the number of new agents obtained as a result of participation at a trade fair.

3.61. The activities outside the Community are more difficult to control adequately, and are riskier: for example, contractors may have to work with local agents, whose financial stability cannot always be assured. Further, paragraph 3.40 shows that the percentage utilisation of funds on these measures is lower than in the other areas.

3.62. In the light of this, and the difficulties of evaluating the effectiveness of the measures, the Commission should examine whether there is sufficient justification for continuing them in their current form.

4. SUMMARY OF MAIN CONCLUSIONS

Regularity and legality

4.1. Budgetary presentation and management of expenditure on coresponsibility contracts are not in accordance with the Financial Regulation (paragraphs 3.1-3.6).

4.2. The role of the national coresponsibility groups should be clarified (paragraphs 3.7-3.13).

4.3. The procedures for allocating funds, and the close involvement of representatives of the milk industry in the decision making procedures, both at national and Community level, mean that the Commission has an important role to play in ensuring that:

- (a) the contracts approved, both individually and taken together, reflect Community priorities;
- (b) applicants' proposals are reviewed in an objective manner (paragraphs 3.14 — 3.16).

4.4. The procedures for awarding the coresponsibility contracts do not follow those laid down in the Financial Regulation, and do not seem to provide a sufficient guarantee of objectivity and the best use of Community funds: they should, therefore, be reviewed (paragraphs 3.17-3.21).

System of management and control

4.5. The systems and procedures that result from the sharing of responsibility for the direct management and control of the contract measures contain a number of weaknesses and inefficiencies, notably:

- (a) there are different interpretations of relative responsibilities as defined in the regulations, and of the implications of certain provisions for management action (paragraph 3.28-3.30);
- (b) in some areas there are not enough guidelines to assist the intervention agencies in the performance of their responsibilities (paragraphs 3.31-3.33);
- (c) the Commission has become too involved in the detail of individual proposals and contracts, limiting the attention that it can give to overall management of the expenditure programme (paragraphs 3.34-3.36);
- (d) the division of some responsibilities and sharing of others can result in duplication of effort and delays in processing documents (paragraph 3.37).

4.6. The Commission has not analysed systematically the payments data from Member States' annual declarations of accounts to identify the reasons for extended payment profiles, different utilisation rates of the measures, and the variations between Member States (paragraphs 3.40-3.41).

4.7. Financial reporting needs to be strengthened (paragraphs 3.42-3.43).

Evaluation of effectiveness

4.8. Evaluation of the effectiveness of the contract measures and the efficiency of the procedures used to manage them should form a systematic part of the management of measures such as these: this would be more feasible if the Commission possessed an evaluation unit to undertake such work (paragraphs 3.44-3.47).

4.9. It seems from a general analysis of consumption trends within the Community that the effectiveness of the measures in achieving the objectives in Regulation No 1079/77 has been limited. In the light of this, and of the more specific results from the evaluations carried

out in 1985, the Commission should review ways in which to increase the effectiveness of these measures and determine whether they should be continued in their present form (paragraphs 3.48-3.61).

This report was adopted by the Court at its meeting of 20 February 1986.

For the Court of Auditors

Marcel MART

President

ANNEX I

Table 1 — Revenue from coresponsibility levy on milk and payments made in connection with the specific measures financed, between 1977 and 1984

(Mio ECU)									
Measure	1977 (from 16. 9)	1978	1979	1980	1981	1982	1983	1984	16. 9. 77 to 31. 12. 84
A. Revenue from Coresponsibility levy	24,1	156,1	94,2	222,9	478,5	537,3	527,4	699,7	2 740,2
B. Expenditure									
B.1 Existing measures									
(a) School milk (Reg. No. 1080/77)	—	10,3	30,0	45,7	41,4	49,1	59,8	88,3	324,6
(b) Butter for manufacture of ice cream (Reg. No. 262/79)	7,5	28,5	23,8	24,0	24,4	22,6	30,9	28,4	190,1
(c) Butter for pastry manufacture (Reg. No. 262/79)	—	—	—	—	—	—	—	125,7	125,7
(d) Concentrated butter (Reg. No. 649/78)	—	4,5	3,6	5,1	7,3	5,7	5,4	7,4	39,0
(e) Disposal for pig and poultry feed (Reg. No. 368/77, Reg. No. 443/77)	—	—	—	—	—	88,2	168,4	237,5	494,1
(f) Financing of high priority measures ⁽¹⁾	16,6	102,7	— 16,1	113,5	361,4	339,6	193,2	149,1	1 259,1
Total B.1	24,1	146,0	41,3	188,3	434,5	505,2	456,8	636,4	2 432,6
B.2 New measures									
(a) Promotion, advertizing market research within the Community (Reg. No. 723/78)	—	10,1	37,4	26,6	35,2	25,6	60,0	51,6	307,6
(b) Market research outside the Community (Reg. No. 1993/78)	—								
(c) Improvement in milk quality (Reg. No. 1271/78)	—		15,5	8,0	8,8	6,5	10,6	11,7	
Total B.2	—	10,1	52,9	34,6	44,0	32,1	70,6	63,3	307,6
Total expenditure (B.1 + B.2)	24,1	156,1	94,2	222,9	478,5	537,3	527,4	699,7	2 740,2
New measures as % of total	—	6 %	56 %	16 %	9 %	6 %	13 %	9 %	11 %

⁽¹⁾ During the period concerned these measures have consisted of:

- improvement of export arrangements for milk products
- measures for the disposal of butter
- aid for skimmed milk powder.

These measures are partly financed by revenue from the coresponsibility levy to the extent that there are levy receipts available after the financing of the specific measures such as school milk where it is stated in the relevant regulations that they are to be wholly or partly funded from coresponsibility.

⁽²⁾ It should be noted that the figures in the table relate to actual revenue and expenditure in the individual financial year, so that the expenditures are not directly comparable with the amounts allocated on the basis of milk years in the programmes concerned.

Source: Annex II COM(84) 675 final of 4. 12. 1984, Annex 10 COM(85) 492 final of 17. 9. 1985.

Table 2 — Allocations in respect of new measures financed by the coresponsibility levy for the period 1977/78 to 1986/87

Measure	Allo- cations commit- ted 16. 9. 77 1. 7. 79 (¹)	(Mio ECU)							
		1979/80 (²)	1980/81 and 1981/82 (³)	1982/83 (⁴)	1983/84 (⁵)	1984/85 (⁶)	1985/86 (⁷)	1986/87 (⁸)	Total 1977/78 to 1986/87
1. Promotion measures within Community	65,3 (⁹)	18,1	30,0	35,0	45,0	37,5	37,5 (¹¹)	25,0	293,4
2. Research within Community	4,7	4,8	0,7	6,0	—	5,0 (¹⁰)	—	10,0	31,2
3. Promotion, etc., outside Community	6,5	10,9	— 1,7	30,0	20,0	—	15,0	—	80,7
4. Improvement in milk quality	30,2	10,9	4,0	6,0	25,0	6,0	6,0	5,0	93,1
Total	106,7	44,7	33,0	77,0	90,0	48,5	58,5	40,0	498,4

(¹) Fourth Communication to the Council concerning the proposed programme for the Utilization of Coresponsibility Levy funds in the Milk Sector, COM(79) 696 final of 6. 12. 79 Table 1.

(²) Ditto, Table 2.

(³) Sixth Communication, COM(82) 66 final of 10. 3. 82. The fifth and sixth Communications do not give clear information regarding the allocations in 1980/81 and 1981/82 respectively. It is necessary to work from the cumulative totals to end 1981/82 to work out the allocations for 1980/81 and 1981/82 together.

(⁴) Ditto, Table 2.

(⁵) Seventh Communication, COM(83) 33 final of 9. 2. 83, Table 4.

(⁶) Eighth Communication, COM(83) 687 final of 23. 11. 83 p. 4.

(⁷) Ninth Communication, COM(84) 675 final of 4. 12. 84 p. 6.

(⁸) Tenth Communication, COM(86) 19 final of 24. 1. 86.

(⁹) Includes partial allocation for 1979/80 made before 1. 7. 79.

(¹⁰) Includes research within and outside the Community.

(¹¹) Includes 2,5 Mio ECU for assessment of promotion measures, especially butter, within the Community.

Table 3 — Period between first advance payments and payment of final balances, between 1978 and 1984 for selected coresponsibility contract regulations

Member State	(Number of years)											
	Promotion within Community					Research within Community		Expansion outside Community			Improve milk quality	
	Reg. No. 723/78	Reg. No. 199/79	Reg. No. 531/81	Reg. No. 326/81	Reg. No. 270/82	Reg. No. 723/78	Reg. No. 2935/79	Reg. No. 1024/78	Reg. No. 1993/78	Reg. No. 2937/78	Reg. No. 1271/78	Reg. No. 2936/79
Belgium	2	3	2	2	3	5	4	4	5	4	5	4
Denmark	4	4	3	1	3	3	4	3	3	4	2	4
FR of Germany	2	3	4	3	3	5	5	4	4	5	6	4
France	3	3	2	2	3 (¹)	5	5 (¹)	4	5	5 (¹)	4	4
Ireland	2	2	2	3	3	4	5	4	3	5 (¹)	2	3
Italy	3	3	2	4	3	4	4	3	5	4	3	5
Luxembourg	1	3	1	2	2	— (²)	— (²)	— (²)	— (²)	— (²)	3	— (²)
Netherlands	5	2	5 (¹)	4 (¹)	3	5	5 (¹)	6	6	4 (¹)	5	4 (¹)
United Kingdom	3	3	4	4	3 (¹)	4	5	3	—	5	5	5 (¹)

(¹) Payments still outstanding at end 1984

(²) No contracts approved.

Source: EAGGF annual accounts between 1978 and 1984 from each Member State, Table VIII d.

Table 4 — Utilization Rates between 1978 and 1984 for selected Coresponsibility Contract Regulations

(%)

Member State	Promotion within Community					Research within Community		Expansion outside Community			Improve milk quality		
	Reg. No. 723/78	Reg. No. 199/79	Reg. No. 531/80	Reg. No. 326/81	Reg. No. 270/82	Reg. No. 723/78	Reg. No. 2935/79	Reg. No. 1024/78	Reg. No. 1993/78	Reg. No. 2937/79	Reg. No. 1271/78	Reg. No. 2936/79	Reg. No. 1079/81
Belgium	99,3	100,0	99,0	99,8	100,0	97,2	99,6	76,6	93,7	97,3	95,2	95,6	— ⁽²⁾
Denmark	100,0	100,0	100,0	100,0	100,0	92,1	100,0	95,5	99,8	98,9	99,8	100,0 ⁽¹⁾	— ⁽²⁾
FR of Germany	99,1	100,0	92,9	100,0	100,0	81,6	83,7 ⁽¹⁾	93,6	85,8	77,1 ⁽¹⁾	97,9	98,0	— ⁽²⁾
France	99,3	99,9	100,0	100,0	95,6 ⁽¹⁾	93,4	84,9 ⁽¹⁾	46,6	56,5	89,0 ⁽¹⁾	95,2	93,2	— ⁽²⁾
Ireland	100,0	100,0	100,0	100,0	99,6	96,7	71,3 ⁽¹⁾	78,5	92,8	71,3 ⁽¹⁾	100,0	100,0 ⁽¹⁾	95,5
Italy	99,9	99,5	99,9	99,1	99,0	97,5	91,3	100,0	100,0	73,2	97,0	95,5	95,8
Luxembourg	100,0	100,0	99,2	100,0	100,0	— ⁽²⁾	— ⁽²⁾	— ⁽²⁾	— ⁽²⁾	— ⁽²⁾	100,0	— ⁽²⁾	— ⁽²⁾
Netherlands	81,4	80,0	80,6 ⁽¹⁾	78,6	100,0	87,0	77,5 ⁽¹⁾	43,1	74,3	60,6 ⁽¹⁾	92,5	65,9 ⁽¹⁾	— ⁽²⁾
United Kingdom	100,0	99,9	99,8	99,7	98,1	84,6	77,8	86,7	0,0	70,1	93,8	77,4 ⁽¹⁾	— ⁽²⁾

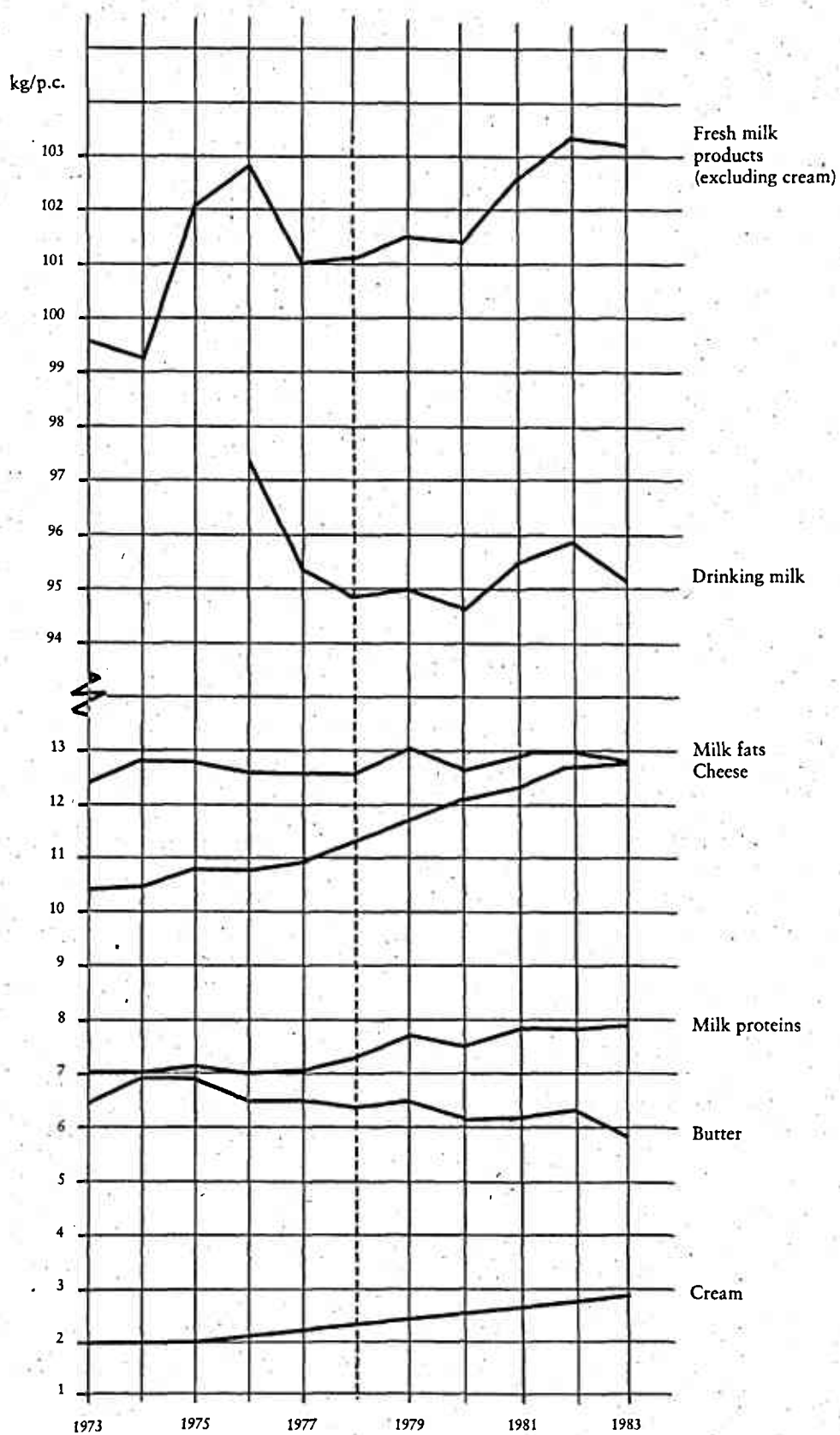
⁽¹⁾ Measures where payments still outstanding at 31. 12. 84.

⁽²⁾ No contracts approved: Reg. No. 1079/81 concerned Ireland, Italy, and Greece only.

Source: EAGGF annual accounts between 1978 and 1984 from each Member State, Table VIII d.

ANNEX II

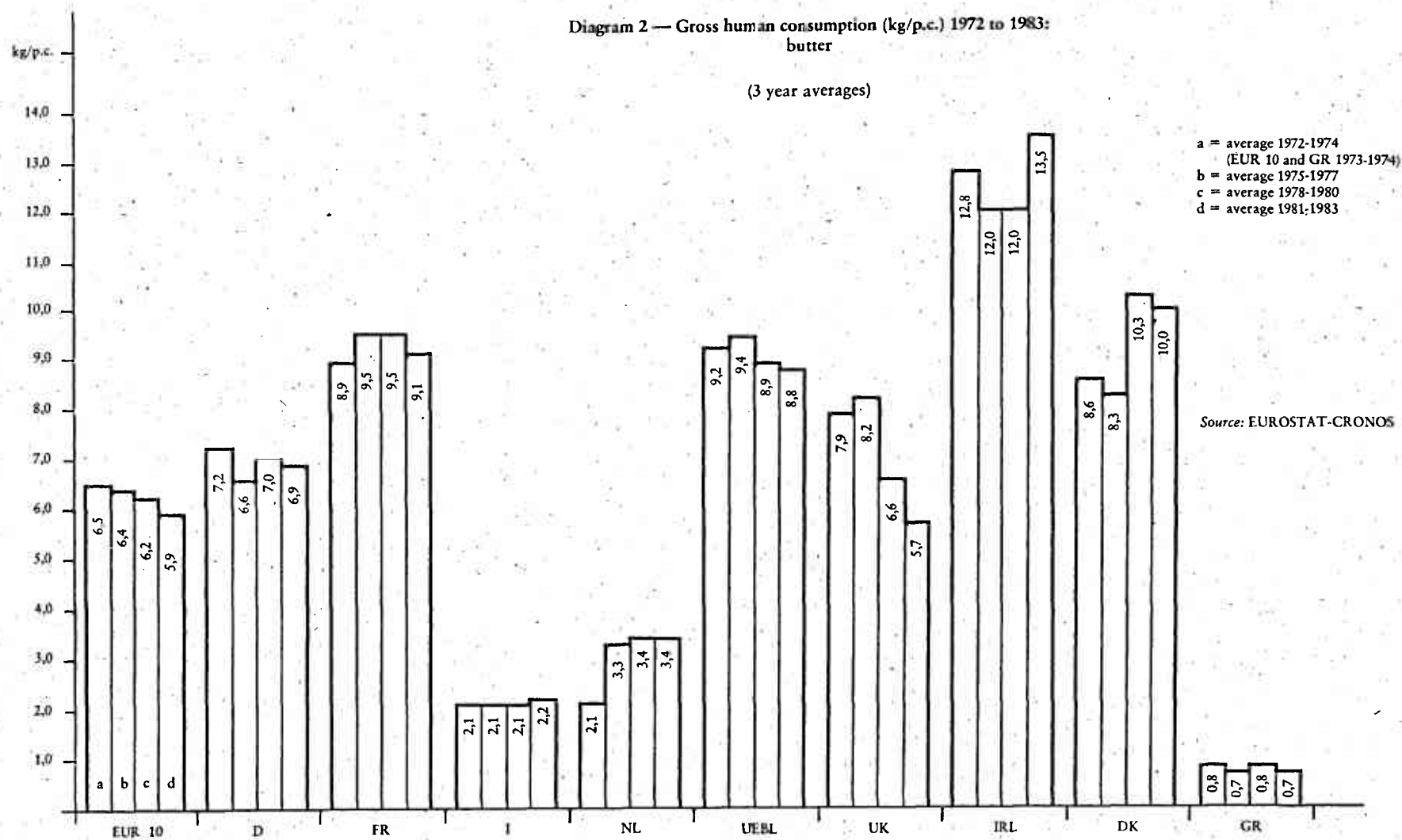
Diagram 1 — Consumption (kg/head) of milk and milk products 1973-1983, EUR 9

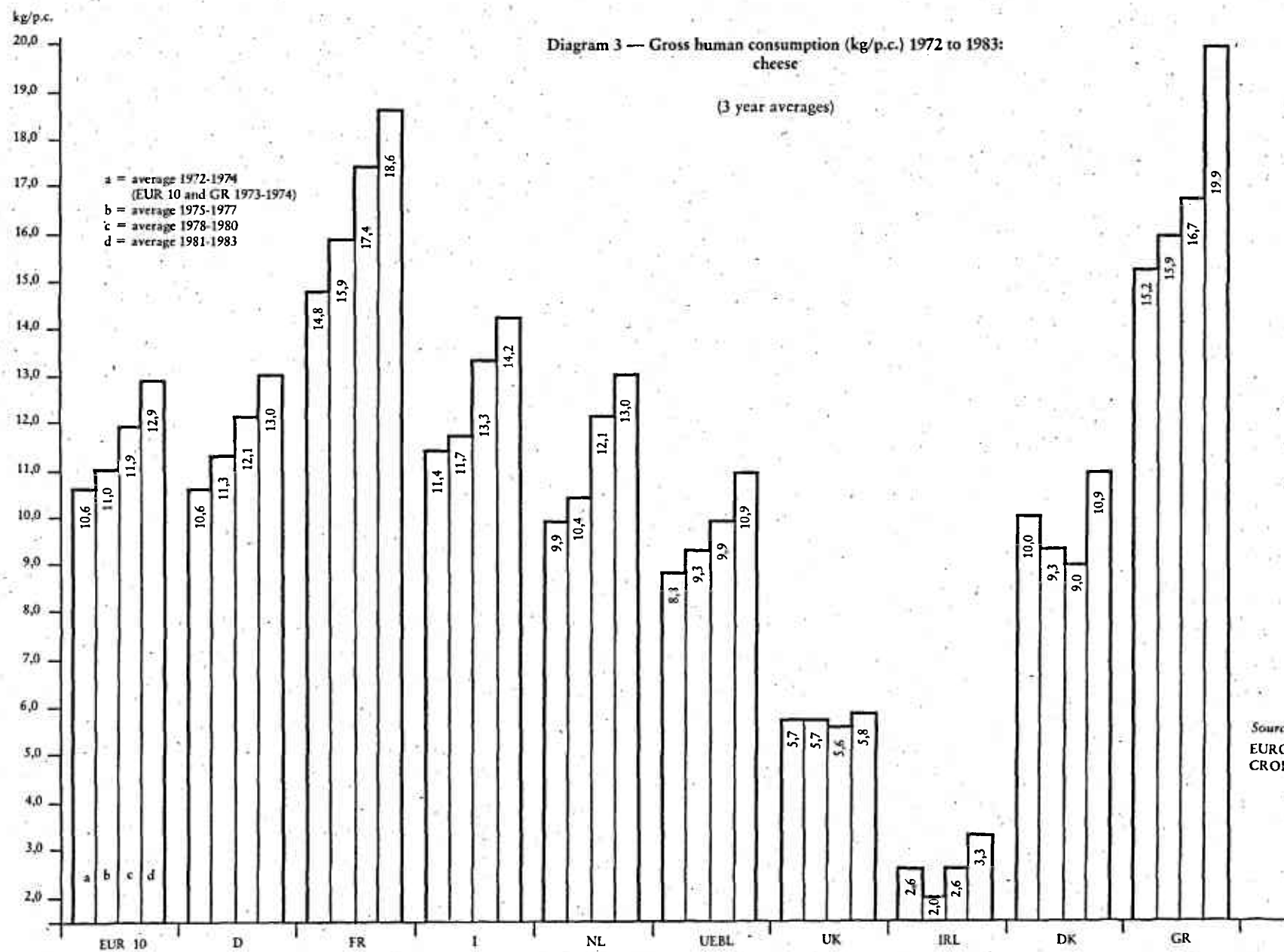


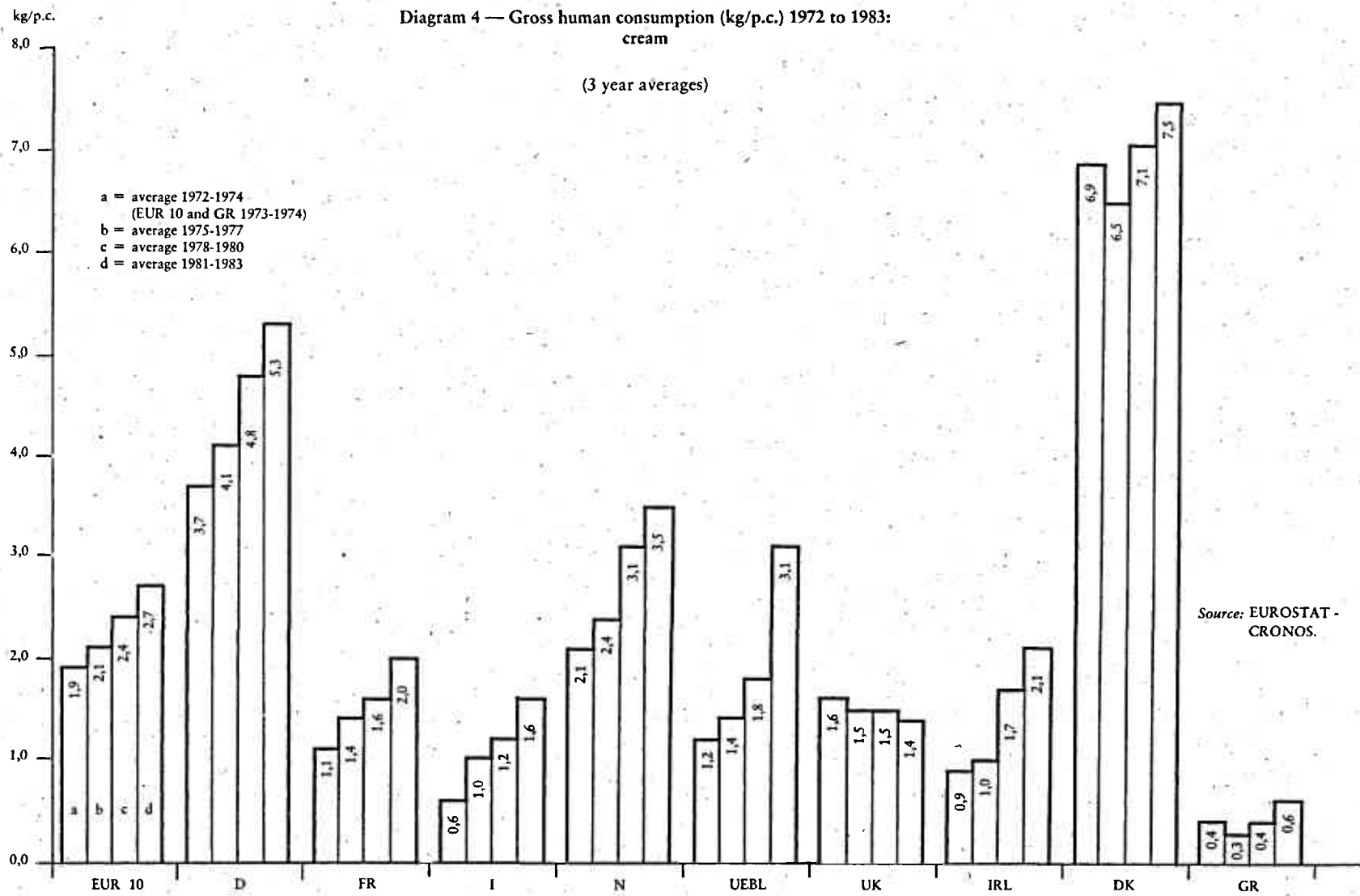
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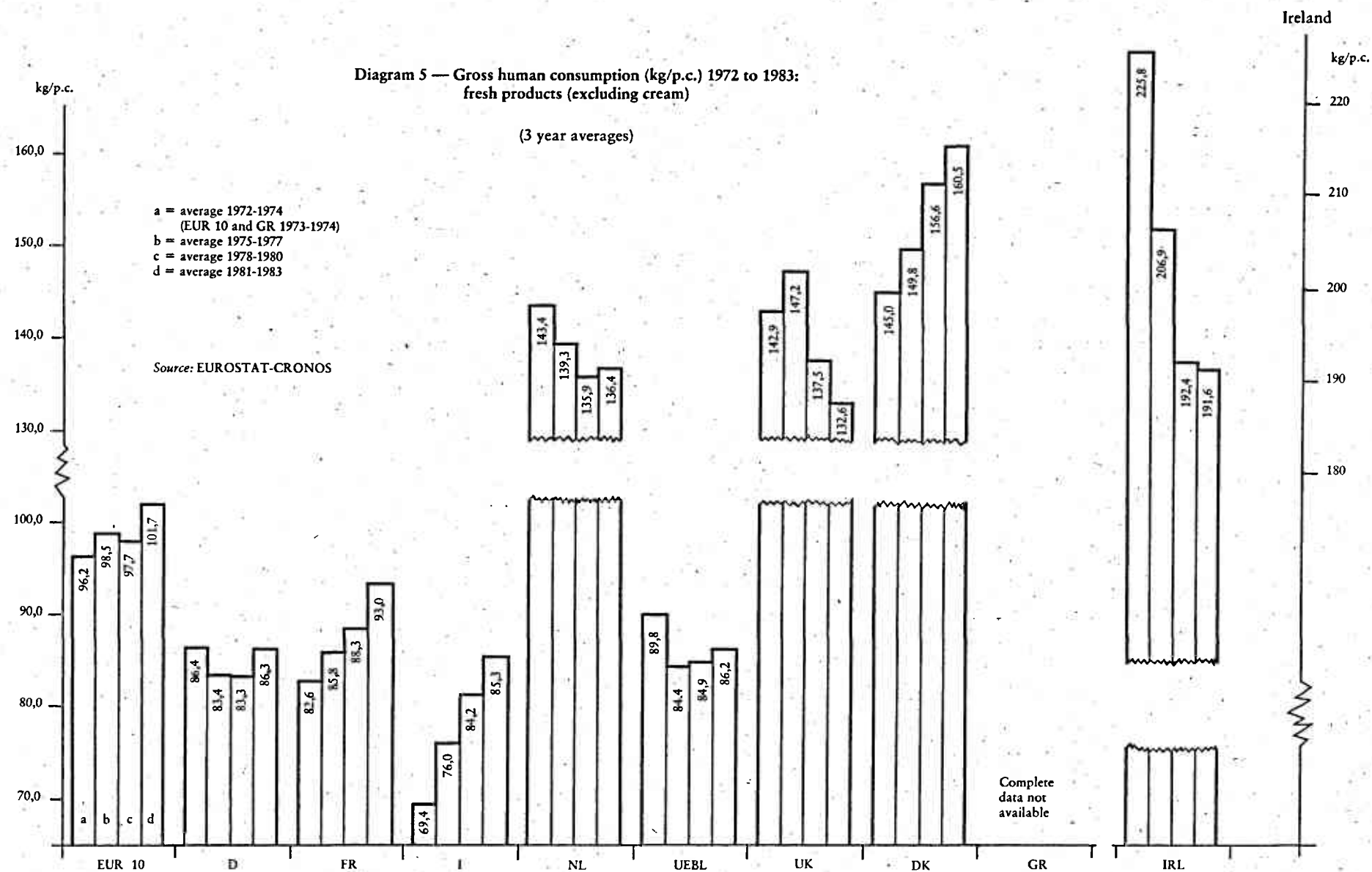
Diagram 2 — Gross human consumption (kg/p.c.) 1972 to 1983:
butter

(3 year averages)









ANNEX III

Regulations governing the implementation of new measures financed by the coresponsibility levy between 1978 and 1985

1. Promotion and publicity within the Community

Regulation No	Date	OJ Ref.	Title
723/78	10. 4. 78	L 98 of 11. 4. 78	concerning promotional publicity and market research measures within the Community in respect of milk and milk products
199/79	1. 2. 79	L 28 of 2. 2. 79	extending the promotional and publicity measures referred to in R(EEC) No 723/78 in respect of milk and milk products
531/80	3. 3. 80	L 59 of 4. 3. 80	extending the promotional and publicity measures referred to R(EEC) No 723/78 in respect of milk and milk products
326/81	6. 2. 81	L 35 of 7. 2. 81	extending the promotional and publicity measures referred to R(EEC) No 723/78 in respect of milk and milk products
270/82	4. 2. 82	L 28 of 5. 2. 82	extending the promotional and publicity measures referred to in R(EEC) No 723/78 in respect of milk and milk products
595/83	14. 3. 83	L 71 of 17. 3. 83	continuing the promotional and publicity measures referred to in R(EEC) No 723/78 in respect of milk and milk products
701/83	24. 3. 83	L 82 of 29. 3. 83	on the implementation of measures to increase the consumption of milk in certain regions of Italy and Greece
2252/84	31. 7. 84	L 206 of 2. 8. 84	continuing the promotional and publicity measures in respect of milk and milk products referred to in R(EEC) No 723/78
2565/84	7. 9. 84	L 240 of 8. 9. 84	on the continuation of the measures referred to in R(EEC) No 701/83 to increase the consumption of milk in certain regions of Italy and Greece
616/85	8. 3. 85	L 69 of 9. 3. 85	continuing the promotional and publicity measures in respect of milk and milk products referred to in R(EEC) No 723/78

2. Market and technical research within the Community

Regulation No	Date	OJ Ref.	Title
723/78	10. 4. 78	L 98 of 11. 4. 78	concerning promotional, publicity and market research measures within the Community in respect of milk and milk products
2935/79	20. 12. 79	L 334 of 28. 12. 79	continuing the measures referred to in R(EEC) No 723/78 on market research measures within the Community in respect of milk and milk products

Regulation No	Date	OJ Ref.	Title
271/82	4. 2. 82	L 28 of 5. 2. 82	continuing the measures referred to in R(EEC) No 723/78 on market research measures within the Community in respect of milk and milk products
282/84	1. 2. 84	L 32 of 3. 2. 84	continuing the measures referred to in Regulations (EEC) No 723/78 (and (EEC) No 1024/78) on market research measures within (and outside) the Community in respect of milk and milk products

3. Promotion and publicity, technical assistance, and research outside the Community

Regulation No	Date	OJ Ref.	Title
1024/78	19. 5. 78	L 132 of 20. 5. 78	concerning measures to expand the market in Community milk products outside the Community
1993/78	18. 8. 78	L 230 of 22. 8. 78	concerning measures to develop the use and consumption of milk products of Community origin outside the Community through technical and/or for commercial assistance
2937/79	20. 12. 79	L 334 of 28. 12. 79	continuing the measures referred to in R(EEC) No 1993/78 on the development of the use and consumption of milk products of Community origin outside the Community
273/82	4. 2. 82	L 28 of 5. 2. 82	continuing the measures referred to in R(EEC) No 1993/78 on technical assistance for the development of the use and consumption of milk products of Community origin outside the Community
507/82	3. 3. 82	L 61 of 4. 3. 82	continuing the measures referred to in R(EEC) No 1993/78 on measures to promote sales outside the Community of milk products of Community origin
594/83	14. 3. 83	L 71 of 17. 3. 83	continuing the measures referred to in R(EEC) No 273/82 in respect of technical assistance for the development of the use and consumption of milk products of Community origin outside the Community
592/83	14. 3. 83	L 71 of 17. 3. 83	continuing the measures referred to in R(EEC) No 507/82 in respect of measures to promote sales outside the Community of milk products of Community origin
282/84	1. 2. 84	L 32 of 3. 2. 84	continuing the measures referred to in R(EEC) No 723/78 and R(EEC) No 1024/78 on market research measures within and outside the Community in respect of milk and milk products
596/85	7. 3. 85	L 68 of 8. 3. 85	continuing the measures referred to in R(EEC) No 507/82 in respect of measures to promote sales outside the Community of milk products of Community origin

4. Improvement of milk quality

Regulation No	Date	OJ Ref.	Title
1271/78	13. 6. 78	L 156 of 14. 6. 78	concerning measures to improve the quality of milk within the Community
2936/79	20. 12. 79	L 334 of 28. 12. 79	continuing the measures referred to in R(EEC) No 1271/78 on the improvement of milk quality within the Community
1079/81	23. 4. 81	L 112 of 24. 4. 81	continuing the measures referred to in R(EEC) No 1271/78 on the improvement of the quality of milk in the Community (Ireland, Italy and Greece only)
272/82	4. 2. 82	L 28 of 5. 2. 82	continuing the measures referred to in R(EEC) No 1271/78 on the improvement of the quality of milk within the Community (Ireland, Italy, and Greece only)
593/83	14. 3. 83	L 71 of 17. 3. 83	continuing the measures referred to in R(EEC) No 1271/78 on the improvement of the quality of milk within the Community
283/84	1. 2. 84	L 32 of 3. 2. 84	continuing the measures on the improvement of the quality of milk within the Community referred to in R(EEC) No 1271/78 (Ireland, Italy and Greece only)
615/85	8. 3. 85	L 69 of 9. 3. 85	continuing the measures on the improvement in the quality of milk within the Community referred to in R(EEC) No 1271/78 (Ireland, Italy and Greece only)

THE COMMISSION'S REPLIES

I. General considerations

Introduction

1. The Commission considers that the Court of Auditors' report has, in general terms, provided a balanced analysis of the special measures for the expansion of the dairy products market, financed from the proceeds of the coresponsibility levy.

Purpose of the measure

2. The legal basis for the coresponsibility levy was provided by Council Regulation (EEC) No 1079/77 of 17 May 1977, which introduced the levy and linked it with measures for expanding the markets in milk and milk products. Since a major purpose of the coresponsibility levy was that farmers should assume some degree of financial responsibility for structural surpluses, the levy and related measures are considered under the terms of this regulation as forming part of the measures to stabilize agricultural markets and thus to supplement the existing intervention system (last preamble and Article 5 (1)). For these reasons they form part of the expenditure of the EAGGF Guarantee Section.

These market stabilization measures concern:

- expansion of markets within the Community (Article 4 (1));
- expansion of markets outside the Community (Article 4 (1));
- the search for new outlets and improved products (Article 4 (2)).

It is pointed out that less than 10% of the funds collected under the coresponsibility levy have been used for these special measures, and from an early stage

the Commission laid the priority on finding normal disposal measures for butter, skimmed milk powder and school milk. In its 10th communication to the Council the Commission has reduced further the allocation for these special measures.

Necessary division of responsibilities

(Points 3.14 - 3.16, 3.22 - 3.27, 3.31, 3.34 - 3.37 and conclusions 4.3 - 4.5)

3. In the beginning it was necessary for the Commission to take on widespread authority over the day-to-day management of contracts, as the national authorities had no experience at all in this field.

The Commission believes that its own services should continue to undertake the examination of applications, since it is only at Community level that a comparison of proposals from different Member States and a balanced decision can be made.

At the same time, the Commission has encouraged the national authorities to play a greater role in the management of contracts, and as the Court notes in point 3.26 their responsibilities were increased in 1981 and 1983, after they had sufficient time to acquire experience. Their responsibility to examine both the financial and technical parts of reports and to conclude contracts were confirmed by the communication mentioned under point 3.30.

The Commission has given operating guidelines to Member States, improving them as appropriate to take into account the operational experience of the competent authorities. The table below gives details of both the number of information notes and guidelines issued and the number of proposals and contracts managed by the Commission directly (1982 and earlier), and by the competent authorities (1983 onwards).

Summary of documents concerning coresponsibility

(Information notes and guidelines for competent authorities and interested parties)

Year	Documents	Pages	Regulations ⁽¹⁾	Decisions	Proposals	Contracts
1978	16	108	4	—	630	382
1979	5	25	4	—	621	363
1980	10	82	1	—	37	33
1981	7	8	2	—	64	62
1982	5	15	5	—	983	523
1983	6	17	5	—	692	390
1984	5	16	4	—	366	227
1985	6	16	3	1	257	234
Total	60	287	28	1	3 650 (100 %)	2 214 (60,6 %)

⁽¹⁾ Specific Regulations only.

Commission involvement in the detail of the measures, necessary in the beginning, has been reduced considerably. It would not be possible to go as far as the Court proposes in point 3.36 because the Commission needs to ensure objectivity of the decisions on contracts, and to avoid recipients of the aid duplicating each other's work.

The Commission will examine favourably the Court's suggestion that consideration be given to increasing the national authorities' responsibilities to include signature of contracts, after they have been examined and selected at Commission level. As they have now had time to acquire experience, the authorities should be in a position to handle this themselves. In the event of transferring these responsibilities the Commission would consider further strengthening the guidelines issued to the authorities as suggested, to make sure that the regulations are applied in all Member States in the same way.

II. Considerations on the budgetary treatment applicable

(Points 2.9., 3.1, 3.3., 3.4. - 3.5., 3.6.)

The Commission would like to make the following comments in response to the observations of the Court of Auditors:

1. The legislation

Article 5 (1) and (2) of Council Regulation (EEC) No 1079/77 of 17 May 1977⁽¹⁾ provides that:

'1. With regard to the financing of the common agricultural policy, the coresponsibility levy and the measures referred to in Article 4 shall be considered as forming part of the measures to stabilize agricultural markets.

2. By way of derogation from Article 3 (1) of Regulation (EEC) No 729/70, the financing of the measures listed in Article 4 may be limited to a portion of the expenditure concerned.'

While appreciating the special nature of the operations, both as regards the levy itself and the expenditure (= measures to expand the markets for milk products), the Council decided that the operations, which "formed part of the measures to stabilize agricultural markets", were covered by the EAGGF Guarantee Section, the management of which is governed by the framework regulation (Regulation (EEC) No 729/70) and by Articles 95 to 101 of the Financial Regulation.

This is why the levy is entered in the budget as a negative appropriation under the EAGGF Guarantee Section, and why the appropriations for promotional measures, which are a corollary of the levy, are also

entered as negative amounts. These operations therefore form an integral part of the EAGGF Guarantee Section, despite their special nature.

The validity, in economic and political terms, of this approach rests on the considerations set out in Section I.1.

The Commission readily admits that the operations are different from the other traditional forms of intervention (refunds, premiums, etc.) governed by the various market organizations, which make up most of the EAGGF Guarantee expenditure. However, there is no reason to strive for total uniformity as an end in itself. The complexity and particular demands of agriculture as a whole make this impossible.

2. Use of contracts

(Point 3.3)

One of the principal ways of implementing the measures provided for in Article 4 of Regulation (EEC) No 1079/77 is by the conclusion of contracts, which often cover several years. In this connection, the Commission would point out that contracting—essential for technical and legal reasons in the case in point—is merely the procedure adopted for the accomplishment of this particular type of intervention. Admittedly, this procedure for implementing budgetary operations differs from conventional procedures for EAGGF Guarantee operations, especially in two respects:

- the fact that contracts are used,
- the contracts cover several years.

However, these particular features do not—in the Commission's view—necessitate the separate presentation and treatment of such operations, entailing:

- either presentation outside the EAGGF Guarantee Section, or
- if they are kept within the EAGGF Guarantee Section, application of the normal rules in the general provisions of the Financial Regulation (possible differentiation of appropriations, normal provisions on commitments and payments, etc.).

The Commission does consider, however, that the 'transparency' of the operations should be improved, along the lines suggested below.

3. Improvement of information and transparency of budgetary presentation and implementation

The Commission agrees with the substance of the Court's remark that present accounting data—the acquisition of which is governed by Articles 96 and 97 of the Financial Regulation—do not provide a full picture of the true situation and the operations involved.

⁽¹⁾ OJ L 131 of 26. 5. 1977.

Consequently, the Commission agrees to take the necessary steps, in cooperation with the bodies concerned in the Member States, to ensure that, in the course of each year, adequate information will in future be available at the following stages:

- (a) when the various contracts are concluded, the financial implications for several years must be determined globally, on the basis of estimated timetables;
- (b) at the close of each financial year, a global balance sheet will be drawn up showing the current status and the outstanding commitments.

The Commission considers that these measures will ensure the necessary information and 'transparency' which the Court of Auditors rightly calls for, without reorganizing the whole system, which would be virtually impossible. The Commission also intends to improve the presentation of these appropriations in the preliminary drafts of the budget.

III. Effectiveness of the measures

Procedure for evaluating the contract measures

(Points 3.42. to 3.62. and conclusions 4.8.-4.9.)

The Commission has undertaken a systematic evaluation of the effectiveness of all measures undertaken from September 1977 to the present. As far as promotion within the Community is concerned a special task force was set up and its final report available (215 pages). As far as all other measures are concerned the responsible market division has undertaken the evaluation itself. A report (167 pages) has been prepared, and distributed to all interested services. Some of the major findings of these reports are outlined as follows:

(a) *Publicity and promotion measures*

In the econometric work presented in the European Dairy Task Force Study 15 out of 19 separate models show advertising to have a significant and positive effect on demand for major dairy products in six Member States.

The main emphasis of coresponsibility funded advertising has been on liquid milk and cheese. In Italy unlike most other countries promotion only commenced when coresponsibility funds became available. Commission figures show that between 1976 and 1982 consumption of liquid milk and fresh products increased by 18% compared to 1,84% in the Community overall (nine Member States).

In Italy the total cost of the measures for liquid milk between 1976 and 1982 divided by the increase in sales in the year 1982 over those in 1976 is only 0,6 ECU/100 kg of additional sales. Even for the Community the cost of advertising divided by additional sales is modest compared with the cost of disposal measures.

Promotion agencies benefiting from the funds argue that advertising has in many cases prevented significant declines in sales, thus having a much higher actual than apparent effectiveness.

A similar pattern emerged for cheese. In Italy between 1976 and 1982 consumption increased by 23,4%. Advertising costs divided by extra sales were 5,0 ECU/100 kg of additional sales. The Community showed a similar increase in sales of 17,6% giving a similar level of effectiveness for the measures.

(b) *Market and technical research within and outside the Community*

Such work has included the following:

- (a) research into new or improved products;
- (b) examination of possibilities of increased use of liquid skimmed milk for animal food;
- (c) research aimed at improving marketing of dairy products in and outside the Community;
- (d) scientific examination of the nutritional aspects of the consumption of milk and its constituents;
- (e) investigation of the importance and use of milk proteins (including the Protein Congress in Luxembourg);
- (f) improvement of techniques for treatment and processing of milk with special reference to cheese making.

All these measures are intended to expand markets for milk and milk products, which is often difficult to prove. Of the 85 contracts for market research in 68 non-member countries the central organization in the Federal Republic of Germany had 67. This organization concluded that these investigations proved highly effective in discovering markets and have improved sales to countries investigated. The 68 countries investigated have a total population of approximately 3 000 million.

The effect of the research measures can only be seen as an integrated part of the overall effort to promote sales. Given the wide range of milk products now available in the Community the effect of such measures can only be guessed at, it cannot be quantified.

(c) *Publicity and promotion outside the Community including technical assistance*

Of the total of 55,9 million ECU granted in promotional aid about 28 million ECU have been for cheese, 12 million of it for the US market. Between 1977 and 1984 Community exports of cheese to the US went up from 40 000 tonnes to 75 000 tonnes while exports from major competitors Finland and Switzerland maintained the same level and those for Austria fell. The rise in value of the US dollar helped but the cutback of refunds on exports and the increase in refunds to other destinations largely offset this. In the same period Community cheese exports were up 150 000 tonnes in promoted markets and overall by 270 860 tonnes. This included a 100 000 tonne increase in non-promoted feta to Iran. Nevertheless the US market remains highly important because of the significantly higher prices than in other markets. Danish feta exported to Iran in 1984 received 86 ECU/100 kg (fob) plus an export refund of 93 ECU amounting to 179 ECU/100 kg while Danish feta sent to the US received 273 ECU/100 kg without an export refund. Enthusiasm by Americans for European cheeses means that import quotas are quickly exhausted though exports of soft cheese (not subject to quota) increase and the price in dollars received continues to rise. In addition exports of other promoted high value added products such as baby foods, long-life drinks, caseinates, desserts and diet foods are known to have risen even though detailed statistics are not available.

(d) *Improvement of milk quality*

The improvement of milk quality is most concerned with the bacteriological content and public health. The types of measures which qualify for aid are specified in the Regulations and include examination of raw milk, counselling of milk producers (including testing of milking machines), training of skilled personnel and provision of refrigerated tanks. In exceptional cases financing was available in 1983/84 to help cover the costs of the tests themselves. In all Member States there is now some system whereby payment is made for milk according to its quality.

More than half of all contracts and funds were made available to Italy, Ireland and Greece, countries with special milk quality problems. The results of the measures have been very positive in raising the quality of raw milk in all Member States. Payments for milk are now based on bacteriological quality throughout the Community. Having achieved these targets it was proposed to discontinue these measures after the 10th Communication to the Council.

IV. Establishment of contracts

Points 3.7.-3.13. and conclusions 4.2. — 'Role of the national coresponsibility groups'

The Commission consults only the Coresponsibility Group established at Community level. It has not been involved in the establishment of the national groups, and indeed has never been officially informed of their existence. The suggestion that rules should be defined for the operation of the national groups cannot be accepted, since the Commission has never invited the national authorities to consult these private bodies, and does not recognize their existence. The Commission is currently preparing guidelines which will, *inter alia*, remind the national authorities that they should exercise their functions independently.

Points 3.14.-3.21. and conclusions 4.4. — 'Procedure for awarding contracts'

In relation to the Court's comment in 3.17. on ensuring the best use of funds, it should be noted that the Council itself fixed the use of funds in Article 4.1. of Regulation (EEC) No 1079/77.

The Commission considers that the present procedure of inviting proposals by means of specific regulations normally constitutes a kind of tendering system suited to specific needs. As shown in the table in paragraph 1.3, 2214 projects were chosen out of a total of 3650 proposals submitted. The comments relating to the non-comparability of these contracts with traditional contracts, and the approval of the Financial Controller, have been answered under Section II.2. above. As concerns objectivity, whilst it is true that potential beneficiaries may be involved in the Coresponsibility Group, it should be emphasized that this Group has no power to accept or reject proposals. The Group only advises the Commission. In order to ensure objectivity of decisions on projects, which the Court desires, it is vital that the power to select and review all projects remains with the Commission. After consultation with the Group, it is the Commission which draws up the list of projects accepted, and presents it to the Management Committee in accordance with Article 31 of Regulation (EEC) No 804/68. All individual proposals selected thus reflect Community priorities.

The Commission is constantly examining its procedures with a view to improving them; in this specific case, modifications were introduced in 1981 and 1983, as the Court itself notes in points 3.26., 3.28., and 3.34.

V. Detailed Observations

Points 3.28.-3.30. and conclusions 4.5.(a) — 'Different applications of the Regulations'

Detailed discussions have been held with Member States since the introduction of the schemes, in working groups, Management Committees, and in bilateral consultations. The Commission is aware of the problems noted by the Court and will consider what action to take in the clearance of accounts procedure.

Since 1983, the competent authorities have had full responsibility for verifying the reports and have to certify that reports conform with the requirements of the Regulations. Furthermore, a substantial number of reports is checked by the Commission's services particularly in cases where the competent authorities have doubts. Before 1983 all reports were checked by Commission services.

The Commission has reminded the competent authorities of their obligations on several occasions, January 1985 being the latest such occasion.

Point 3.31.(c)

As concerns the evaluation of proposals, the procedure was changed in 1984, and detailed evaluation of any proposal is now available.

Point 3.32.

Selection criteria established by Commission services have been given to the competent authorities, which have made them available to applicants, who have thus been able to prepare proposals and execute contracts in full knowledge of the terms and conditions. After the inevitable problems inherent in setting up any new system, these criteria have been improved each year, in the light of experience. In the future, the Commission will take into account the Court of Auditors' observations.

Point 3.33.

The Commission is aware of this problem and is considering ways in which the situation could be improved.

Point 3.37.

As far as the question of the Commission needing to seek additional information in order to evaluate proposals is concerned, the competent authorities have now been requested to send only completed proposals to the Commission.

Points 3.38.-3.39. — 'Conclusions on the dual management system'

As noted above under point I.3., the Commission is prepared to consider positively the suggestion the Court

makes in 3.38. As noted above, it is also prepared to examine favourably the suggestion that more responsibility for the contracts, including their signature, should pass to the intervention agencies. Since the comparison of different Member States' proposals and overall co-ordination of Community objectives can only be achieved at Community level, it is essential that overall control of the contracts remains with the Commission.

Points 3.40.-3.41. and conclusions 4.6. — 'Utilization of funds and payment profiles'

In addition to the improvements in transparency mentioned under point II.3. above, analysis of the data available on contract execution will be done within the day-to-day management tasks which the competent authorities must undertake in conformity with the regulations.

Points 3.42.-3.43. and conclusions 4.7. — 'Reporting on overall execution of regulations'

The regulations do not impose a legal obligation on the Commission to report on the execution of the measures. Nevertheless, the Commission has felt it appropriate in accordance with the principles of good management, to inform all interested parties of the main results of these actions. For this purpose, it will in the future give more information on the financial and efficiency aspects of the results of the measures, especially in the field of promotion.

Point 3.55.

The sum proposed in the Eighth Communication from the Commission to the Council for promotional measures in 1984/85 was 37,5 million ECU. But point 7 of the communication provided that:

'The implementation of the proposals contained in this Communication will depend on both the evolution of the market and the budget situation and outlook'.

In fact, the budget situation in 1984 proved to be very tight at a very early stage in the year. On 6 July the Commission was obliged to propose a Supplementary and Amending budget of 1 983 million ECU.

Certain items of expenditure which were not strictly essential had to be held over. The extent to which these measures caused problems in the sector in question is far from proven.

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