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<u>Notice No</u>	Contents	Page
	I <i>Information</i>	
	Court of Auditors	
90/C 76/01	Special report No 1/90 on certain storage operations in the pigmeat sector accompanied by the replies of the Commission	1

I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 1/90

on

certain storage operations in the pigmeat sector accompanied by the replies of the Commission
(90/C 76/01)

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

TABLE OF CONTENTS

	Paragraph reference
1. Introduction	1.1 — 1.3
Budgetary expenditure	1.2 — 1.3
2. Normal private storage measures	2.1 — 2.27
Triggering storage measures	2.6 — 2.7
Calculation of aid amounts per unit	2.8
Administrative management and control	2.9 — 2.25
Shared management	2.9 — 2.12
Controls in the Member States	2.13 — 2.14
Organization of physical controls	2.15
Storage operations	2.16 — 2.17
Physical checks during the storage period	2.18 — 2.20
Storage arrangements	2.21 — 2.22
Control reports	2.23 — 2.24
Stock accounts	2.25
The Court's recommendations on the normal private storage measures	2.26 — 2.27
3. Exceptional market support measures for animal health reasons	3.1 — 3.47
General matters	3.1 — 3.7
Application of the measures in Belgium	3.8 — 3.26
Private storage aid	3.10 — 3.11
Purchase of private stocks by the intervention agency	3.12 — 3.14
Special aid	3.15
Sale of repurchased produce	3.16
Refund of the sale price to the purchaser	3.17
Commission inquiry into the conditions of storage	3.18 — 3.20
Cost of the operations to the EAGGF Guarantee budget	3.21

General assessment of the measures adopted in Belgium	3.22 — 3.26
Application of the measures in the Netherlands	3.27 — 3.33
Evaluation of the operations	3.30 — 3.31
The area of infection	3.32
Lack of concrete evidence of control activities	3.33
Application of the measures in Italy	3.34 — 3.42
Community regulations governing private storage measures	3.35 — 3.36
National aid in addition to Community aid in 1986 and 1987	3.37 — 3.39
Budgetary cost of the measures in Italy	3.40 — 3.41
Evaluation of the operations	3.42
Financial reporting of exceptional market support measures	3.43 — 3.44
Conclusions concerning the exceptional support measures	3.45 — 3.47

Pages

Replies of the Commission

18 — 23

1. INTRODUCTION

1.1. The purpose of this report is to present observations concerning firstly the normal private storage operations in the pigmeat sector, and secondly exceptional market support measures which have been undertaken for animal health reasons in regions stricken by epizootic diseases. These observations are based on audit findings from the three Member States where exceptional market support measures have been introduced, i.e. Belgium, Italy and the Netherlands. These three Member States are also amongst the main beneficiaries of normal private storage aid. As private storage has been used as an exceptional market support measure, and as the findings concerning normal private storage are sufficiently significant, it is appropriate to include them in this report with the findings on the exceptional support measures.

to some extent in 1984, Denmark also incurred a large part of the expenditure. Although France has an important pigmeat sector, there is little expenditure on storage operations.

1.3. The most striking part of this table is the increase in expenditure in Belgium from 4,1 Mio ECU in 1984 to 52,3 Mio ECU in 1985 and 54,6 Mio ECU in 1986. This reflects the cost to the Community budget of exceptional support measures following an outbreak of African swine fever in 1985. By contrast, expenditure in the Netherlands and Italy, where exceptional support measures financed by the EAGGF Guarantee Section were adopted in 1983, 1985, 1986 and 1987 does not show a similar increase.

Budgetary expenditure

1.2. Community expenditure on both private storage aid and exceptional support measures is currently combined in Article 231 of the budget. During the last six years it has averaged some 50 Mio ECU per year, with considerable variations from one year to another essentially depending on whether or not exceptional market support measures have been introduced. *Table 1* sets out expenditure under Article 231 for 1983 to 1988 for all Member States. This shows that the main beneficiaries are Belgium, the FR of Germany, Italy and the Netherlands. In 1987 and 1988 and

2. NORMAL PRIVATE STORAGE MEASURES

2.1. Council Regulation (EEC) No 2759/75 sets out the legal basis of and principles governing private storage aid ⁽¹⁾. Council Regulation (EEC) No 2763/75 ⁽²⁾ lays down the general rules for granting the aid, and detailed

⁽¹⁾ Council Regulation (EEC) No 2759/75 of 29 October 1975, OJ No L 282, 1.11.1975.

⁽²⁾ Council Regulation (EEC) No 2763/75 of 29 October 1975, OJ No L 282, 1.11.1975.

Table 1 — Budgetary expenditure on pigmeat storage operations, Article 231, 1983 to 1988

(Mio ECU)

Member State	1983	1984	1985	1986	1987 ⁽¹⁾	1988 ⁽²⁾
Belgium	2,6	4,1	52,3	54,6	7,0	6,8
Denmark	2,8	6,5	1,0	1,0	10,3	8,9
FR of Germany	8,2	10,2	2,4	4,8	8,9	6,9
Greece	0,0	—	—	—	—	—
Spain	—	—	—	—	0,8	2,6
France	1,6	3,3	0,9	2,1	2,3	2,6
Ireland	0,2	0,5	0,0	0,1	0,2	0,1
Italy	5,4	7,4	3,4	6,3	10,6	7,7
Luxembourg	0,0	0,0	—	—	—	—
The Netherlands	3,0	5,4	2,0	7,4	6,3	7,1
Portugal	—	—	—	—	—	—
United Kingdom	1,0	1,5	0,4	0,2	0,7	0,4
EUR-12	24,8	38,9	62,4	76,5	47,1	43,4

⁽¹⁾ The 1987 EAGGF budgetary year ran from 1 January to 30 October 1987.⁽²⁾ The 1988 EAGGF budgetary year ran from 1 November 1987 to 15 October 1988.

Source: EAGGF financial reports.

rules are set out in the specific implementing regulations each time aid measures are adopted. The decisions to apply and to cease application of the measures are taken by the Commission according to the procedure of the Management Committee ⁽¹⁾. The lists of products to which the intervention measures apply are drawn up and the amounts of the aid fixed according to the same procedure.

2.2. The decision to apply private storage aid measures may be taken when the Community market price for pig carcasses is less than 103 % of the basic price and is likely to remain at this level ⁽²⁾. The basic price is fixed annually by the Council. It is intended that it should be set at a level that contributes towards stabilizing market prices without leading to the formation of structural surpluses in the Community. The Community market price is fixed by reference to the prices recorded in each Member State on the representative markets of the Community and weighted by coefficients reflecting the relative size of the pig herd in each Member State. A Community scale for grading pig carcasses, which is obligatory for drawing up the quotations for pig carcasses, enables comparisons to be made.

2.3. Private storage consists of operations to store particular products in warehouses, at their own risk and expense, by operators with whom the intervention agencies have made contracts, in return for payment of a security.

Under these contracts, the holders of the products undertake to store them for a certain length of time in return for payment of an aid which is determined according to the type and weight of the products and the duration of storage. The aid is paid by the intervention agency after it has ascertained that the conditions of the contract have been fulfilled. The amount of aid may be either determined by means of an invitation to tender or fixed in advance at a single rate. It is the latter method which is always applied in practice.

2.4. Table 2 shows the application of the Community private storage aid measures since 1983, by year, regulation and quantity. Article 4 measures are normal, Community-wide private storage measures, while Article 20 measures are the exceptional market support measures for animal health reasons involving private storage contracts. The Article 20 measures are considered in chapter 3.

2.5. The observations in this section of the report are divided into two parts. Firstly, two points concerning the decision-taking procedures of the Commission are examined namely, the insufficient regulatory provisions governing the triggering and discontinuation of normal private storage measures under Article 4, and inadequacies in the calculation of aid amounts per unit. Secondly, the administrative management and control of the measures themselves by the Commission and Member States are considered.

⁽¹⁾ Article 24, Council Regulation (EEC) No 2759/75.⁽²⁾ Article 4, Council Regulation (EEC) No 2759/75.

Table 2 — Private storage aid in the pigmeat sector

Year	Period	Weeks Number	Contracts concluded (in tonnes)	Legal basis Regulation (EEC) No 2759/75
1983	24.1.-31.1.	1	1 113	Art. 4 (Denmark)
	1.2.- 9.9.	32	120 178	Art. 4
	9.5.- 3.6.	4	340	Art. 20 (Italy)
1984	16.1.-29.6.	24	103 981	Art. 4
1985	4.3.-30.3.	4	20	Art. 20 (Italy)
	18.3.-26.4.	4	1 992	Art. 20 (Belgium)
	27.3.-17.4.	4	21 360	Art. 20 (Belgium)
	18.4.-17.5.	5	8 438	Art. 20 (Belgium)
	6.5.-19.7.	12	35 553	Art. 4
	3.6.-20.9.	23	9 774	Art. 20 (Belgium)
1986	27.1.- 6.4.	11	9 799	Art. 20 (Italy)
	1.4.-18.7.	16	95 440	Art. 4
	29.9.-31.12.	14	8 986	Art. 20 (Italy)
1987	19.1.-29.6.	24	167 577	Art. 4 ⁽¹⁾
1988	15.2.-12.6.	17	202 885	Art. 4
	2.5.-20.6.	8	14 399	Art. 90 Adhesion

Source: Commission.

⁽¹⁾ Of which 15 583 tonnes between 6 May and 29 June 1987 following adoption of Commission Regulation (EEC) No 1259/87, exceptional support measures in Italy.

Triggering storage measures

2.6. Private storage measures in the pigmeat sector are not automatic but discretionary. The basic Regulation is characterized by its flexibility, which allows the Commission to choose when it wishes to initiate and discontinue an intervention measure and the price at which the agencies may intervene on the market. The Regulation stipulates only one condition that must be satisfied for the Commission to decide to trigger private storage measures, i.e. that the market price for pig carcasses must be less than 103 % of the basic price and must be likely to remain at that level.

2.7. Since 1982, the basic price, following successive increases at the annual price fixing, has been considerably higher than the Community market price, and has become an abstract value removed from the reality of the market. It has lost its function as a point of reference for triggering private storage measures. As a consequence, the Commission has adopted a pigmeat price/feed price index as the principle indicator of the market situation. The evolution of this index has become a determining factor for triggering

the measures. Thus, decisions to trigger and to discontinue private storage aid are based on a mechanism which is not expressly provided for in the regulation. This is unsatisfactory and the Court considers that either the basic price should be reduced so that it reflects market reality, or, in the absence of this, the regulation should be modified to enable the pigmeat price/feed price index to be used as the trigger mechanism.

Calculation of aid amounts per unit

2.8. The amount of the private storage aid per unit applied is determined by taking into account various costs, such as the warehouse rents, the cost of freezing and labour and other financial costs. It was noted, however, that the amount has remained the same since 1983 whereas interest rates and energy costs in particular fell considerably from 1985 onwards, reducing the cost to be borne by the storers in all the Member States. Since aid is, in part, an incentive to put produce into storage, the amount paid should be more closely linked to the market conditions for pigmeat and the evolution of storage costs. Moreover, the

Commission has never yet applied the tendering procedure provided for, along with the procedure for the fixing of a flat-rate sum in advance, under Regulation (EEC) No 1092/80 ⁽¹⁾ in order to determine the amount of private storage aid. It is thus depriving itself of a method which it could use in order to fix the aid rate at a more economic level.

Administrative management and control

Shared management

2.9. As with most measures financed by the EAGGF Guarantee Section, the measure providing for private storage of pigmeat is implemented by means of shared management and control arrangements. Under the terms of the regulations in force, it is for the Member States themselves, in particular their intervention agencies and technical inspection services, to look after the daily functioning of the measure. As a result, the operation of the scheme is largely dependent upon national structures, rules and traditions.

2.10. Further, as far as control arrangements are concerned, the regulations give considerable freedom to Member States' authorities to determine themselves the type, scope and frequency of the controls to be carried out. In the absence of clear guidance provided by the Commission, in practice variations exist between Member States. These national arrangements contain a number of important weaknesses, which are considered in paragraphs 2.13 — 2.25.

2.11. As the Court has emphasized in previous reports ⁽²⁾, when detailed responsibility for the execution and control of measures is conferred upon Member States, the Commission has an essential role to perform in monitoring and supervising Member State implementation. The Commission should provide the co-ordination necessary to ensure minimum homogeneity in control arrangements between Member States.

⁽¹⁾ Commission Regulation (EEC) No 1092/80 of 2 May 1980, OJ No L 114, 3.5.1980.

⁽²⁾ For example, Annual Report concerning the financial year 1987, OJ No C 316, 12.12.1988, paragraph 4.133; Special Report No 2/87 on the quota/additional levy system in the milk sector, OJ No C 266, 5.10.1987, paragraphs 5.1 — 5.18; Special Report No 4/87 on Community wine distillation measures, OJ No C 297, 6.11.1987, paragraphs 6.1 — 6.5.

2.12. The Court has noted, however, that, despite the provisions of Article 12 of Commission Regulation (EEC) No 1092/80, the Commission's services do not possess detailed descriptions of the Member States' control systems for this measure. Clearance of accounts work has been limited to documentary checks of individual storage contracts. These have not been sufficient to enable the Commission to identify the weaknesses in national systems which are considered in the following paragraphs.

Controls in the Member States

2.13. The administrative and documentary checks on private storage contracts and claims for aid are carried out by economic management or market sections of the intervention agencies. These services are responsible for authorizing payment of the private storage aid to contractors. In the Court's opinion these services should be subject to independent checks by a financial service, for example a financial controller, or internal audit.

2.14. The Court found, however, in the three Member States visited that the role of the financial services in the intervention agency was a purely accounting one, and that these services were not in a position to carry out more than formal checks on payment authorizations from the market sections. During the periods under review there had not been any effective internal audit check of the services authorizing payment. The Court notes, however, that following its detailed observations to the Member States concerned, the authorities have undertaken to make the necessary organizational changes to ensure effective internal audit of these operations. In the case of Belgium a small internal audit unit has already been established.

Organization of physical controls

2.15. The Court found that, in the three Member States visited, there were not sufficient resources available to carry out the technical inspections and controls at the coldstores. The inspection services involved, namely the 'Inspection Générale Economique' (IGE) in Belgium, the 'Buitendienst' in the Netherlands, and the 'Ispettorati Provinciali dell'Agricoltura' (IPA) or equivalent in Italy, have a wide range of other tasks to perform in relation to national and Community measures. The time and staff set aside for controls on pigmeat in private storage are limited.

Storage operations

2.16. In order to guarantee that the obligations devolving upon the storer under the provisions of the Community and national legislation are observed, it is essential to ensure that the storage-entry operations are fully supervised. The Court found that this could not be guaranteed for the following reasons:

- (a) the inadequate resources made available for these controls (see paragraph 2.15);
- (b) the frequently extremely high number of partial deliveries under one contract: these deliveries are often of very small quantities and are spread over several days, exacerbating control difficulties;
- (c) inadequate prenotification to the control agency of the dates and stores at which quantities of pigmeat will be put into stock, frequently based on unrecorded telephone contacts;
- (d) there was frequently no direct evidence that a controller was present when items were taken into store, for example in the form of duly completed proforma reports for each partial delivery (non-existent in Italy, sporadic in Belgium, and only recently introduced in the Netherlands) or an entry in the registers of the contractor (non-existent in Belgium and the Netherlands, sporadic in Italy).

2.17. Of particular importance in the procedures for taking products into private storage is that concerned with weighing the product on entry. It is this weight which determines the amount of aid to be paid. The Court found a number of weaknesses in the procedure:

- (a) the absence of the controller when partial quantities are taken into store means that reliance had to be placed on the information provided by the contractor, which is unacceptable;
- (b) further, frequently no weighing dockets are established, or kept, by the contractor to provide confirmation of the weight, and no such dockets are required by the national control agencies;
- (c) in several cases there was no evidence, in the form of seals or fixed stamped plaques, that the balances had been accepted or reexamined by the national weights

and measures authorities. In other cases, such certification related to several years previously.

Physical checks during the storage period

2.18. According to Community legislation ⁽¹⁾, the storer is required to store all of the products under contract for the stipulated period, without altering the stored products in any way or exchanging them for other products or transferring them from one store to another. Intermediate controls should guarantee that this provision is observed. The Court identified a number of weaknesses in Member States' procedures in this regard:

- (a) in the Netherlands intermediate checks are not carried out systematically;
- (b) in Italy no evidence of such intermediate controls, in the form of control reports, was provided to the Court;
- (c) in Belgium no intermediate checks are carried out at all.

2.19. The Court noted, however, that in Belgium, since 1984/1985 products in private storage are obligatorily placed under seal. In Italy, the practice of sealing is not uniform — the Court found that it was applied in the Rome region, but not in the Modena region. In the Netherlands no seals are applied. Although current Community legislation does not lay down this procedure, sealing is an effective method offering the requisite guarantees that products which are stored or in the process of being stored have not been tampered with.

2.20. At the end of the storage period, the inspectors often certify, giving no further details, that the conditions of the contract have been fulfilled. Evidence as to the nature of the controls carried out, in particular, as regards the result of any weighing operations and information on weight losses observed as a result of extended storage, is not generally given (see also paragraph 2.23(a)).

Storage arrangements

2.21. Article 3.2(d) and (e) of Commission Regulation (EEC) No 1092/80 require the contractor to store the products in lots which are easily identifiable, and to allow

⁽¹⁾ Commission Regulation (EEC) No 1092/80 of 2 May 1980, Article 3.2(a).

the controller of the intervention agency to carry out checks at any moment on all aspects of the contract. The Court found that in the cold stores visited the storage arrangements were such that physical checks could not be adequately carried out within a reasonable period. Typical problems were:

- (a) complete absence of corridors between lots;
- (b) heaps of pallets and containers blocking corridors between lots, where they existed;
- (c) absence of plans showing the layout of warehouses and how the lots are stored;
- (d) lack of separation in the storage areas of lots which do and those which do not benefit from Community aid.

2.22. Further, the Court found that it was impossible in many instances to re-weigh particular lots because:

- (a) different lots were mixed up within containers;
- (b) the labels fixed on the containers did not contain weight references (gross and tare);
- (c) it proved impossible to establish a direct link between the documents of the controllers and the information on the labels of the containers.

Control reports

2.23. A number of weaknesses in control reports were identified:

- (a) differences were found between the information contained in the inspectors' control reports and that to be found in other supporting documents. Such differences concern, for example, the number of partial deliveries, the dates of storage operations, and weight;
- (b) there are no standard requirements as to what inspectors' control reports should contain, and in practice there are considerable differences in the way in which they are completed: in some cases they refer to

detailed control points, in others they do no more than certify that the contractor has fulfilled his contractual obligations without providing any evidence of controls carried out;

- (c) in Italy it was noted that in some cases the final storage report was drawn up considerably later than the date of the last delivery. Besides the weakness in control that this represents, such a time lag is detrimental to the contractor, in so far as he does not receive the aid until after the date on which the report was drawn up.

2.24. It is moreover essential that all the records and documents in support of a private storage contract, which may provide justification of the legality and regularity of the aid granted, be kept together and be included, compulsorily, in the files that are required to be held by the intervention agency. Such is not the case in Belgium where, for example, the inspection reports and veterinary certificates are held at the offices of the 'Inspection Générale Economique'.

Stock accounts

2.25. The firms do not usually keep stock accounts which list, for each contract, a detailed inventory of goods placed in storage, which would make it possible to trace, at any time, the movement of lots from their time of arrival to departure. This reduces transparency and impedes documentary administrative control of the system on the undertakings' premises. In Belgium and Italy, the inspectors do not carry out any administrative control of the firms' commercial documents and rely solely on physical checks. A combination of physical and administrative control exists only in the Netherlands. This is necessary because frequently in the Netherlands the contractors do not own the cold stores. In such cases an inspection of the accounts held by the contracting party and of the cold store facilities is provided for at the time of any intermediate check. As noted in paragraph 2.18, however, such intermediate checks are not carried out systematically.

The Court's recommendations on the normal private storage measures

2.26. The Court considers that it is entirely compatible with the principles of decentralized management for the Community Regulation setting out the detailed implemen-

tation arrangements, supported where necessary by guidance notes from the Commission services, to specify key control aspects which must be observed by the Member States' control services. Indeed the Court considers this to be essential to the satisfactory functioning of decentralized management on a Community-wide basis.

2.27. The Court, therefore, recommends that Commission Regulation (EEC) No 1092/80, supplemented by guidance notes, should be amended to provide for:

- (a) minimum requirements concerning physical controls and visits when products are being taken into store, during storage, and when the products leave the store (paragraphs 2.16 — 2.20);
- (b) more precise requirements for prenotifying dates, places and weights for taking into store (paragraph 2.16(c));
- (c) limitations on the discretion granted to a contractor to break up a contract quantity into small quantities for the purpose of taking it into stock (paragraph 2.16(b));
- (d) all visits of controllers/inspectors to be documented by a written control report specifying key items controlled: minimum requirements for such control reports should be specified (paragraphs 2.16(d), 2.20);
- (e) specific procedures for certifying the weight of produce taken into store under a given contract (paragraph 2.17);
- (f) specific requirements for intermediate checks during the storage contract period, covering such matters as frequency, representativity of sample of contracts to be checked, points to be checked (paragraphs 2.18 — 2.20);
- (g) obligatory sealing of products placed under private storage contracts (paragraph 2.19);
- (h) stock accounts to be kept in respect of produce under private storage contract (paragraph 2.25);
- (i) minimum requirements concerning administrative checks and the need to reconcile information in the

documents supporting the contract with the commercial accounts of the firms concerned (paragraph 2.25).

3. EXCEPTIONAL MARKET SUPPORT MEASURES FOR ANIMAL HEALTH REASONS

General matters

3.1. Article 20 of Council Regulation (EEC) No 2759/75 provides that exceptional market support measures may be taken in conjunction with veterinary control measures limiting intra-Community or third country trade taken to combat animal disease. The article does not specify the form that these measures should take, it being left to the Commission, using the Management Committee procedure to decide on this in each particular case.

3.2. During the 1980s a number of outbreaks of African swine fever and foot-and-mouth disease, which are highly contagious diseases, occurred in the Member States of the Community. These were in addition to the endemic problems of African swine fever in the Iberian peninsula and in Sardinia. African swine fever was confirmed on the mainland of Italy in 1983 and 1988, in Belgium in 1985 and in the Netherlands in 1986. There were outbreaks of foot-and-mouth disease in Denmark in 1982 and 1983, and in Italy from 1984 to 1988.

3.3. With each outbreak, strict veterinary control measures were introduced, for example:

- (a) epidemiological inquiries to identify all infected animals, and to trace all farms which had direct or indirect contact with infected animals;
- (b) immediate slaughter and destruction of carcasses of infected animals and those on farms which had direct contact with infected animals;
- (c) serological testing of animals within zones of infection defined by the veterinary authorities;
- (d) vaccinations;

- (e) severe restrictions on — in some cases complete prohibition of — normal commercial slaughtering and movements of pigs and pigmeat within and across the borders of infected zones.

3.4. The costs of the veterinary control operations (vaccinations, serological testing, compensation to farmers for the compulsory slaughter and destruction of infected and direct contact animals) are financed partly from national funds, partly from Community funds provided under Article 380 (Expenditure in the Agricultural sector, outside the EAGGF).

3.5. In addition, market support measures were introduced in the infection zones with the purpose of offsetting the disruption to the market caused by the veterinary restrictions. An important consideration in relation to such measures is that producers should have a controlled outlet for their animals, and thus be discouraged from illegally avoiding restriction on movement and slaughtering.

3.6. *Table 2* includes all the exceptional market support measures taken under Article 20. It should be noted that in 1983 when there was an outbreak of foot-and-mouth disease on the Island of Funen in Denmark the Commission, instead of adopting measures under Article 20 limited to the Island of Funen, introduced a market support measure under Article 4 (normal private storage), in favour of the whole of Denmark ⁽¹⁾. The animal health situation in Denmark was quoted in the recitals to the regulation as a justification for the measure. The legal basis of this, however, was not correct as Article 4 measures may only be applied to the whole of the Community and are not intended to deal with the situation arising from animal health problems. One week after adoption of this measure it was replaced by a normal storage measure for the whole Community ⁽²⁾, with no mention of the animal health situation in Denmark.

3.7. Although these measures are directly related to veterinary control measures designed to contain and clear the outbreak of disease, their cost is financed by the EAGGF Guarantee budget, Article 231. The measures introduced in the three Member States considered in this report varied widely both in terms of the strategies adopted and the results achieved.

Application of the measures in Belgium

3.8. African swine fever was diagnosed in Belgium in March 1985 in a rearing and fattening unit in West Flanders, the largest producer area in the country. A series of veterinary measures including slaughter and destruction were taken to contain and stamp out the disease, and restrictions were placed on the movement of pigs and pigmeat both within Belgium and across its borders. As the outbreak occurred in an area with a high density of pig production, and from where most of the pigs and pigmeat are sold outside the area, high priority was attached to ensuring that there was no official or illegal movement of pigs or pigmeat which might spread the disease throughout the Community pig herd.

3.9. Exceptional market support measures under Council Regulation (EEC) No 2759/75, Article 20, were adopted, together with special provisions to allow pigmeat from affected areas which itself was not infected to be used in pigmeat products after undergoing heat treatment in accordance with a formula prescribed by the Veterinary Science Committee of the Commission ⁽³⁾. The measures adopted are particularly significant because of their number, diversity and complexity.

Private storage aid

3.10. One week after the confirmation of the outbreak on 8 March 1985, the Commission introduced an exceptional market support measure in the form of private storage aid ⁽⁴⁾. As the Belgian veterinary authorities had not yet defined the infected area and as the national veterinary restrictions at this time covered the whole of Belgium, this first Community measure was not focused on animals in the area of infection, but rather applied to products from pigs reared and slaughtered anywhere in Belgium. The aid rate was fixed at normal private storage aid levels, i.e. to cover the average cost of storing the products for the duration of the contract. Applications under this blanket measure were made between 18 March and 26 April 1985, in respect of 1 992 tonnes of pigmeat only.

⁽¹⁾ Commission Regulation (EEC) No 120/83 of 19 January 1983, OJ No L 16, 21.1.1983.

⁽²⁾ Commission Regulation (EEC) No 229/83 of 27 January 1983, OJ No L 27, 29.1.1983.

⁽³⁾ Heat treatment at 60-70°C for four hours should ensure that the virus is destroyed.

⁽⁴⁾ Commission Regulation (EEC) No 686/85 of 15 March 1985, OJ No L 75, 16.3.1985.

3.11. On 26 March, two days after the veterinary authorities limited the disease to a well-defined area and one week after the introduction of the first measure, the Commission adopted a second measure restricted to the veterinary zone in which the outbreak had been contained ⁽¹⁾. This ran parallel to the first measure — which was not discontinued — with applications to be made between 27 March and 17 April. The aid rate was doubled for the second measure only, in an attempt to increase its efficiency. Further amendments were made to the private storage scheme on several occasions:

- (a) the area affected was redefined;
- (b) the time limit for the conclusion of contracts initially set for the period 18 March to 26 April was extended to 30 September 1985;
- (c) the storage period was extended several times because of the large quantities of meat involved and general market conditions, but also because of the time it took to take decisions with regard to the processing of the meat and the requirements to be imposed.

Purchase of private stocks by the intervention agency

3.12. Only one week after the introduction of the second private storage scheme, with increased rate of aid, on 2 April 1985 the Commission adopted a regulation aimed at limiting the financial risk to operators taking part in it ⁽²⁾. This reflected concern that the disposal of the pigmeat in store could be prejudiced by the continuing serious animal health situation. Operators were given the right, where meat could not be released for consumption until it had undergone sufficient heat treatment to prevent further spread of the disease, or where for the same reason it must be destroyed, to sell it to the intervention agency for 110 % of the market price less 30 % (modified subsequently to 40 %) of the private storage aid granted to the operator. For the most part, this sale to the intervention agency involved a simple transfer of ownership of the meat by means of book entries without any physical transfer, 81 % of the meat sold in this way remaining in the same store.

3.13. Thus as early as one month after confirmation of the outbreak, there was concern about the marketability of the meat being taken into private storage. This did not, however, lead to a re-evaluation of the strategy of storing the affected meat.

3.14. Although the principle of sale to the intervention agency was agreed on 2 April 1985, it took until 19 July 1985 when Directive 85/403/EEC was published to specify the heat treatment to be applied. It was only after this date, on 29 July 1985 ⁽³⁾ that the implementing rules for the resale operation were finalized. This four month delay shows that the Commission was unprepared for putting into practice the measures decided upon.

Special aid

3.15. In order to try to encourage operators to dispose of their stock of pigmeat on the market rather than to the intervention agency, a special aid, fixed in principle on a monthly basis by means of a tendering procedure, was introduced by the Commission. Only 2,5 % of the meat concerned was disposed of in this way, however.

Sale of repurchased produce

3.16. In October 1985 ⁽⁴⁾ the Commission decided to sell the meat which had been repurchased. Initially, this was effected on the basis of monthly notices of invitations to tender for produce intended for human consumption, with fixed prices for the lots not sold by tender. Subsequently, because of the indifferent success of processing and the loss of quality in the meat due to the time in storage, the Commission decided in December 1985 to put up for sale the produce which was now intended only for destruction (i.e. rendering into meal and bonemeal and non-edible fats). It was only in May 1986 that the system of monthly sales by tender of produce for human consumption was replaced by the system of flat-rate prices fixed in advance.

⁽¹⁾ Commission Regulation (EEC) No 772/85 of 26 March 1985, OJ No L 86, 27.3.1985.

⁽²⁾ Commission Regulation (EEC) No 890/85 of 2 April 1985, OJ No L 96, 3.4.1985.

⁽³⁾ Commission Regulation (EEC) Nos 2121/85 and 2122/85 of 29 July 1985, OJ No L 198, 30.7.1985.

⁽⁴⁾ Commission Regulation (EEC) No 2858/85 of 11 October 1985, OJ No L 274, 15.10.1985.

Refund of the sale price to the purchaser

3.17. Last in this summary of the measures adopted, according to provisions adopted in November 1985 ⁽¹⁾ the selling price of meat from intervention was to be refunded to the purchaser by the intervention agency where the purchaser found, and the competent Belgian authorities confirmed, that after thawing the produce was no longer fit for human consumption. The cause of the quality defect had to be established by the authorities, who were to have recourse to the initial storer where appropriate. According to the national authorities the total quantity rejected for consumption in this way was only 40,8 tonnes.

Commission inquiry into the conditions of storage

3.18. Despite the exceptional nature of the measures and the difficulties encountered in implementing them, and despite receiving information concerning possible irregularities and anomalies during the latter part of 1985, it was not until March 1986 that the Commission went on the spot to examine the situation when it opened an inquiry under Council Regulation (EEC) No 729/70, Article 9 (2). A team of officials from the Commission and the Member State, aided by experts engaged by the Commission for the purpose, carried out a survey of half the 28 cold stores concerned and two processors. The inquiry, which included the analysis of samples taken during the survey in specialist laboratories, showed that the storage conditions of most of the meat, particularly carcasses, were unsatisfactory: meat was not packed, or poorly packed, carcasses were piled on top of each other, some pieces had freezer burns and were dirty, and conditions of hygiene were generally poor.

3.19. The absence of a specific provision in the special measure regulations providing for a control of quality when the meat was transferred to public intervention did not mean that the authorities could dispense with the control of the conditions of public storage provided for in Article 2.1 of Regulation (EEC) No 3247/81 ⁽²⁾. The authorities should, therefore, have identified the problems noted above, and, for example, refused to purchase the meat. The Commission, however, after initially proposing to disallow expenditure relating to nine coldstores, finally refused to finance the expenditure in relation to the carcasses only in the two cold stores where the conditions were found to be totally inadequate. A total amount of

7,7 Mio ECU was refused in respect of expenditure in 1985 and 1986 ⁽³⁾.

3.20. The laboratory analysis results of the samples taken during the survey, however, showed that a larger quantity of meat had deteriorated in quality due to non-observance of public storage conditions. Unfortunately, the analyses were carried out some six to eight weeks after the samples were taken and the Commission had not taken the necessary precautions to ensure that the samples were taken in a manner that could not be challenged, according to procedures agreed with the Member State. This omission meant that the Commission was not in the position to base its disallowance decisions on the full results of its own inquiry, including the laboratory analysis results.

Cost of the operations to the EAGGF Guarantee budget

3.21. Of the 40 956 tonnes taken into private storage, 37 211 tonnes were bought into public intervention by the intervention agency, and special aid was granted in respect of 922 tonnes. The rest remained in private storage to be disposed of by the storage operators at their own expense because they did not meet all the requisite intervention conditions. In the course of sales by the intervention agency approximately 11 500 tonnes were disposed of for human consumption at an average price of 800 ECU/tonne. The major part, however, i.e. around 25 500 tonnes, went for destruction at the very low average price of 12 ECU/tonne. The net cost to the EAGGF of the whole operation, after taking into account the clearance of accounts disallowances following the inquiry noted above, was 95,8 Mio ECU (see Table 3), i.e. a unit net cost of 2 340 ECU/tonne of meat. The total net cost was made up of 26,2 Mio ECU in private storage aid, and 69,6 Mio ECU in public storage costs (mainly losses on sales). In addition, the cost of the veterinary control measures (Item 3802, Specific veterinary measures) was 1,9 Mio ECU.

⁽¹⁾ Commission Regulation (EEC) No 3287/85 of 25 November 1985, OJ No L 315, 26.11.1985.

⁽²⁾ Commission Regulation (EEC) No 3247/81 of 9 November 1981, OJ No L 327, 14.11.1981.

⁽³⁾ Summary report of 15 June 1988 on the audit results for the approval of EAGGF Guarantee Section accounts for the financial year 1986.

Table 3 — Cost of normal private storage and of exceptional market support measures, Belgium, Italy and the Netherlands, 1985-1988.

(Mio ECU)

Member State	Measure	1985	1986	1987	1988	Total
Belgium	Normal private storage	2,0	1,7	5,5	6,8	16,0
	Exceptional market support	50,4	52,9	0,2	0,0	103,5
	less corrections ⁽¹⁾	-3,3	-4,4	—	—	-7,7
	subtotal	47,1	48,5	0,2	0,0	95,8
	Total	49,1	50,2	5,7	6,8	111,8
Italy	Normal private storage	3,4	0,7	5,8	7,7	17,6
	Exceptional market support	0,0	5,6	4,8	0,0	10,4
	Total	3,4	6,3	10,6	7,7	28,0
The Netherlands	Normal private storage	2,0	4,5	6,3	7,1	19,9
	Exceptional market support	—	2,9	—	—	2,9
	less corrections ⁽²⁾	—	-0,1	—	—	-0,1
	subtotal	—	2,8	—	—	2,8
	Total	2,0	7,3	6,3	7,1	22,7

⁽¹⁾ The corrections were made in the clearance of accounts decisions of November 1988, and are actually recorded in the accounts for that year. As they concern 1985 and 1986 the corrections are shown here for those years.

⁽²⁾ The correction was made in the clearance of accounts decision of November 1988 and is actually recorded in the accounts of that year. As it concerns 1986 expenditure, however, the correction is shown here for that year.

General assessment of the measures adopted in Belgium

3.22. This review of the exceptional market support measures undertaken in Belgium shows that they did not enable Community funds to be used either in an economic or in an efficient manner. As such financial management by the Commission and by the Member State was not sound. The whole strategy should have been seen to be unrealistic at the time. The idea that the market could be supported by storing meat that was suspect when there was predictable uncertainty about the potential for disposing ultimately of the meat at market prices, was flawed. When one month after the confirmation of the outbreak it began to become clear that disposal of products in store could be prejudiced by the continuing animal health problems a reappraisal of the policy of storage should have taken place with, amongst others, the objective of safeguarding Community finances. It is not surprising that continuing a policy of storage in these circumstances led to an average cost to the Community budget of 2 340 ECU/tonne, considerably in excess of the average market price of 1 725 ECU/tonne for grade II carcasses on the Belgium market during this period. These figures show, that, while the market for pig producers in the zone affected by the outbreak was supported, as intended, the processing industry also benefitted substantially from the Community budget.

3.23. Further, the management of the measures in the Member State was inadequate, yet when the Commission tried to assess the financial consequences and to disallow expenditure within the framework of the clearance of accounts, the inquiry that was carried out was late, inadequate, and the financial correction made was minor.

3.24. Specific points which support this judgement are:

- (a) when it took its first decisions to support the market, the Commission did not know what to do with the meat: in the interim it authorized storage of large quantities at considerable cost without there being a plausible outlet for the meat at market prices;
- (b) the heat treatment was accepted neither by the meat processing industry and retailers, which feared that Belgian pigmeat products would lose their quality image, nor by consumer organizations: indeed the treatment was contested by Italy, which simply closed its borders to Belgian pigmeat ⁽¹⁾;

- (c) there were insufficient suitable cold store facilities to store the meat, which should have been identified before deciding to launch the storage programme: as a result, storage had to be authorized in cold stores which did not conform to the required norms of hygiene, which inevitably resulted in loss of quality;

- (d) there was a serious lack of control when the stocks passed from private to public intervention storage: where the stocks were physically moved from one store to another (6 786 tonnes), they were satisfactorily weighed and packed under the supervision of the intervention authorities and the weights were currently recorded; for the other 30 425 tonnes which stayed in the same store, however, no control of weight or quality was carried out, the control reports merely taking up the weights and other characteristics mentioned when it entered private store ⁽²⁾.

3.25. In addition, financial management decisions were unsatisfactory:

- (a) the private storage measures authorized storage both of carcasses and of higher-value added cuts such as hams, shoulders, and various deboned cuts, for which higher private storage premiums were payable than for carcasses. Also, the regulations provided that the market price for these cuts was the grade II carcass price multiplied by a coefficient ranging from 0,87 to 1,62. Based on the mix of cuts involved the weighted average coefficient can be estimated as 1,2651. The Court estimates, therefore, that the average buying-in price paid was increased by 26,5 % above that based solely on the grade II carcass price. This higher value was not recovered in the ultimate disposal prices;
- (b) although the buying-in price had to be sufficiently attractive to the trade, fixing it at the market price plus 10 % was to set it at too high a level, being based on a market price which was artificially high in Belgium at that time due to shortages of supply resulting from the restrictions of movements of pigs;

⁽¹⁾ Proceedings by Italy against the Commission (Case 289/85) and proceedings by the Commission against Italy (Case 11/86).

⁽²⁾ An opinion of the Belgian intervention agency (OBFA) stated that the weight recorded on exit should be used as the basis for establishing the final payment. When informed by telex of these procedures concerning OBFA's assumption of responsibility, the Commission considered that at the initial stage the procedures did not call for any comment from the EAGGF because of the exceptional nature of the measure. It had to revise its opinion, however, in the light of the results of the EAGGF inquiry.

- (c) the prices obtained when the produce intended for human consumption was sold were no more than one third of the prices that normally would have been obtained; the selling prices for produce destined for destruction were derisory, and considerably below the prices then ruling in the market for such produce.

3.26. The two above points indicate that the public authorities failed to realize that the trader rather than they would be able to fix the terms for such a major intervention in the market. Inevitably the trade became aware that the authorities held large quantities of pigmeat which had to be disposed of quickly, for which there was no normal market, and a large proportion of which was in poor condition. Those processors who had the capability to process the meat for human consumption did not have the capacity to handle 30 000 tonnes in a short period, added to which they were required to work under continuous supervision with strict working conditions. Also, there was an absence of any real competition at the time of disposal, with few processors and destruction plants taking part in the operations, and putting in very low bids when tendering. In these circumstances the public authorities could not expect to obtain prices for the meat which would have been considered 'normal'.

Application of the measures in the Netherlands

3.27. When African swine fever was confirmed at the end of March 1986 in a fattening establishment in the province of South Holland, the Commission, having learned from its experience in Belgium, changed the strategy completely in the Netherlands and decided to go ahead immediately with the slaughter and low-value processing of the pigs concerned. The radical measures taken in the Netherlands proved to be effective, less expensive, easy to manage and did not create any problems of storage, processing or disposal. If the same strategy had been applied in Belgium it would have involved a very substantial reduction in costs for the EAGGF.

3.28. As a result of the strict veterinary control measures taken the source of infection was confined to an area with a low pig population. 7 000 pigs that were either infected or in direct contact with infected animals were slaughtered.

3.29. As far as the exceptional measures to support the market were concerned, between 21 April and 4 July 1986 the intervention agency bought slaughter pigs and piglets which met certain weight requirements for processing into

meal and bonemeal and non-edible fat. Transport and processing operations were to be carried out under the control of the veterinary services. The pigs were bought at the market price for pig carcasses, with a weighting of 0,83. The purchase price for piglets was set at a flat rate in advance (38 ECU/head). The processor undertaking had to pay 29,76 ECU/tonne for the goods delivered to it ⁽¹⁾.

Evaluation of the operations

3.30. During the 11 weeks in which the measures were in force 9 000 piglets and 18 200 pigs for a total weight of 2 372 tonnes were bought by the intervention agency. The net cost of the operation amounted to 2,8 Mio ECU after deduction of revenue of less than 0,1 Mio ECU from sales to the processor undertaking. This resulted in a net cost per tonne of 1 180 ECU (as against 2 340 ECU/tonne in Belgium). The sale price of the carcasses for processing was almost 2,5 times that obtained in Belgium (29,76 ECU/tonne as against 12 ECU/tonne). The cost of the veterinary control measures to the Community budget was 0,3 Mio ECU (Article 380 specific veterinary measures).

3.31. Although the evaluation of the exceptional market support measures is essentially positive, there are two points of criticism which should be noted:

- (a) the area to which the measures were applied was not progressively reduced as foreseen in the regulation;
- (b) there was insufficient specific evidence of the control activities.

The area of infection

3.32. Commission Regulation (EEC) No 1231/86 provided for the automatic reduction of the area covered by the support measures as the zone of infection was reduced. The intention was that if no serological tests proved positive, and if no new farms were infected, then the veterinary authorities would notify the Commission of reductions in the infection zone. In the event, although by 2 May 1986 the serological tests were over, with 10 600 samples having been taken from 463 herds, all yielding negative results, the

⁽¹⁾ Commission Regulation (EEC) No 1231/86 of 28 April 1986, OJ No L 112, 29.4.1986.

infection zone was kept unchanged until June. The area covered by the support measures was reduced in line with this on 11 June ⁽¹⁾. A prompter reduction of the affected area would have diminished the cost of the special measures. Thus in the period between 2 May 1986 and 10 June 1986 a total of 10 866 slaughter pigs and 1 753 piglets were destroyed. This corresponds to 59,7 % of the total number of pigs and 19,5 % of the piglets purchased by the intervention agency during the period covered by the measures and resulted in expenditure of 1,5 Mio ECU.

of African swine fever (1983 and 1985) and foot-and-mouth disease (1986 and 1987) ⁽²⁾. In all cases they took the form of aid for private storage.

Community regulations governing private storage measures

Lack of concrete evidence of control activities

3.33. All the loading and sealing operations connected with the transport of pigs and piglets through the knacker's yard and the destruction operations were the responsibility of the veterinary inspectors. The only concrete evidence of the veterinary officers' activity, however, was to be found in the transport dockets. No specific control reports were drawn up. It was not possible to find any concrete evidence of their presence at firms from the firms' records. Buitendienst inspectors, who had only certified the number of animals leaving the farm on the transport docket, had to check the weighing operations carried out at the only destructor undertaking. It was however noted that the weighing dockets were not signed or initialled by control officers, only by the delivery driver or a worker at the undertaking. The fact that the Buitendienst gave each transaction a serial number could not be regarded as adequate evidence of close supervision of the regularity of the operations (carried out, incidentally, with a weigh-bridge which had last been checked in 1984).

3.35. The private storage special support measures introduced in 1983 and 1985 concerning African swine fever were entirely Community-financed. There was, however, a very limited response from producers. In 1983 340 tonnes of pigmeat were stored under these measures, and in 1985 only 20 tonnes.

3.36. The outbreak of foot-and-mouth disease at the end of 1985 in certain provinces spread rapidly, finally affecting local health units ⁽³⁾ spread throughout the entire territory of Italy, except for the islands. Again, private storage measures were introduced. From the outset difficulties were encountered. The Community regulations governing them became less and less precise: after the end of September 1986, no clear definition of infected areas was given. The regulations merely stated that the products receiving grants of aid must come from local health units in which foot-and-mouth disease had been confirmed, or from units adjoining them. Control of implementation of the measures was made difficult by being dispersed through the local health units. These units were responsible for notifying the Ministry of Health of apparent sources of infection, and the Ministry informed the veterinary services of the Commission of any changes to the areas which occurred.

Application of the measures in Italy

3.34. Between 1983 and 1987 a series of Community regulations were adopted in Italy at the time of outbreaks

⁽¹⁾ Commission Regulation (EEC) No 1809/86 of 11 June 1986, OJ No L 157/86, 12.6.1986.

⁽²⁾ Commission Regulations (EEC) Nos 1116/83 of 6 June 1983, OJ No L 121, 7.5.1983; 554/85 of 1 March 1985, OJ No L 63, 2.3.1985; 165/86 of 27 January 1986, OJ No L 21, 28.1.1986; 666/86 of 7 March 1986, OJ No L 58, 1.3.1986; 2976/86 of 29 September 1986, OJ No L 279, 30.9.1986; 107/87 of 15 January 1987, OJ No L 14, 16.1.1987; 1259/87 of 6 May 1987, OJ No L 119, 7.5.1987; 1768/87 of 25 June 1987, OJ No L 167, 26.6.1987

⁽³⁾ In veterinary matters the Italian central government plays a steering role, and drafts directives, framework laws and decrees. The regions have been given a delegated authority to take disease control measures, implementation of which is the responsibility of the communes, which, in turn, call upon the local health units (LHUs). There are 600 LHUs in Italy.

National aid in addition to Community aid in 1986 and 1987

3.37. The Italian authorities argued that the lack of response to the 1983 and 1985 exceptional support measures in connection with the African swine fever outbreak was due to the aid level being insufficient to offset producers' losses. Accordingly, in September 1986, following the outbreak of foot-and-mouth disease, the Commission offered Italy the possibility of granting supplementary national aid in cases where Community aid was granted ⁽¹⁾. The amount of national aid was to be fixed by the Member State in agreement with the Commission. The implementation of this by the Italian authorities was unsatisfactory:

- (a) the amount of national aid was not agreed beforehand. Not until 4 October 1986 was the Commission informed of the Interministerial Committee on Agriculture and Food Policy (CIPAA) decision fixing national aid, which dated from 25 September 1986. By acting unilaterally the Member State did not respect the obligation incumbent on it pursuant to Community regulations;
- (b) the national aid was fixed at a uniform rate which, unlike Community aid, was not graduated in terms of the storage period. As a result, out of a total of 8 986 tonnes stored under Commission Regulation (EEC) No 2976/86, 7 827 tonnes were stored for the minimum period of two months;
- (c) the amount of national aid represented 30 % of the Italian market price for a storage period of two months and was 2,5 times higher than the Community aid.

3.38. In spite of this precedent, the Commission, in May 1987, once again allowed the possibility of national aid being granted as a supplement to Community aid ⁽²⁾. The amount of national aid this time was to be limited to 50 % of the Community aid. The CIPE (Interministerial Committee for Economic Programming), however, had already decided on the measures on 8 April 1987, which were the subject of an AIMA circular of 6 May 1987 (document No 7668). They fixed the amount of aid at a level which significantly exceeded the authorized 50 % limit. Once again the amount was fixed on a flat-rate basis which took no account of the storage period. As a result, out of a total of 15 583 tonnes stored after the introduction of Commission Regulation (EEC) No 1259/87, 11 570 tonnes were stored for the minimum of four months.

⁽¹⁾ Commission Regulation (EEC) No 2976/86 of 29 September 1986, Article 1, paragraph 3, OJ No L 279, 30.9.1986.

⁽²⁾ Commission Regulation (EEC) No 1259/87 of 6 May 1987, OJ No L 119, 7.5.1987.

3.39. In both 1986 and 1987, therefore, Italy did not conform with Community regulations governing the granting of national supplement to the Community private storage aid. As a result, the amounts of aid available were particularly attractive, making it possible for operators to obtain the maximum aid for the minimum commitment.

Budgetary cost of the measures in Italy

3.40. The budgetary cost of the exceptional market support measures in 1983 and 1985 which followed the African swine fever outbreaks was negligible, as only small quantities of pigmeat were put into private store, and were disposed of without further cost to the Community budget.

3.41. As far as the private storage measures following the foot-and-mouth disease outbreaks in 1986 and 1987 are concerned, *Table 3* shows that they cost the Community budget 5,6 Mio ECU in 1986 and 4,8 Mio ECU in 1987, for a total of 34 368 tonnes in the two years, at average cost of about 300 ECU/tonne. All the meat taken into private storage under these exceptional measures was disposed of on the market in the normal way without any further charge to the Community budget. It is not possible to say to what extent the high aid rates resulting from the decisions of the national authorities concerning the supplement payable increased the quantities taken into store at Community expense.

Evaluation of the operations

3.42. Apart from the irregular nature of the decisions of the Italian authorities concerning the national aid supplement, and the absence of effective actions by the Commission to deal with this, the main point to note from the exceptional market support measures in 1986 and 1987 involving private storage is that they did not encounter the same difficulties as those in Belgium in 1985 and 1986. One reason for this may be that these outbreaks of disease in Italy concerned foot-and-mouth disease, which, although serious, is better known than African swine fever and less disruptive of the market. There is less market resistance to meat coming from areas affected with foot-and-mouth disease. Further, it is not necessary to put affected meat through the same controversial heat treatment as with meat from areas affected by African swine fever.

Financial reporting of exceptional market support measures

3.43. During the period under examination, expenditure on the exceptional market support measures was not shown separately in the revenue and expenditure account of the Commission. Member States' declarations of expenditure are in sufficient detail, however, to enable the overall budget cost to be broken down, and this has been done by the Court for Belgium, Italy and the Netherlands for the years 1985 to 1988.

3.44. The Commission, however, does not itself normally draw up a summary of the cost of particular measures. Nor does it bring together expenditure on the veterinary control measures themselves recorded on Article 380 and that on exceptional market support measures. At management level, therefore, it does not have a clear idea of the cost to the budget of the different actions taken following outbreaks of diseases. It is recommended that the Commission should keep regular records of the full veterinary and market support costs to the budget following outbreaks of disease.

Conclusions concerning the exceptional support measures

3.45. The Court does not consider that exceptional market support measures resulting from an outbreak of

epizootic disease should be financed from the EAGGF Guarantee budget. Such measures form part and parcel of the measures to prevent the spread of the disease and should be financed as part of the miscellaneous expenditure in the agriculture, in particular Article 380 of the budget dealing with the specific veterinary control measures. The Court considers therefore, that the provisions of Article 20 of Council Regulation (EEC) No 2759/75 should be suppressed or at least modified.

3.46. Also, the Court considers that some financial participation by the Member States concerned in the cost of such exceptional support measures is more likely to ensure that the chosen measures will succeed and that management by Member State administrations will be more efficient and effective. Article 380 is suited to this form of financial intervention.

3.47. With regard to the choice of exceptional market support measures introduced following outbreak of disease, the Court considers that in the case of the outbreak of African swine fever in Belgium the adoption of measures involving the storage of meat from the affected zones was mistaken and as a result Community funds were used neither economically nor efficiently. As such, financial management by the Commission and by the Member State was not sound. On the other hand, the adoption of radical measures in the Netherlands involving immediate slaughter and low-value processing of animals in the affected area was cost-effective, and should provide a model for future outbreaks of African swine fever in areas where consumer resistance to the affected meat can be expected. A different approach, however, may be needed in the case of foot-and-mouth disease, as the experience of Italy shows. At all events, the Commission should have a well-defined strategy prepared in advance to deal with potential outbreaks.

The present report was adopted by the Court of Auditors in Luxembourg at its meeting of the 22nd February 1990.

For the Court of Auditors
Aldo ANGIOI
President

REPLIES OF THE COMMISSION

General remarks

This Court report covers both normal private storage measures and exceptional support measures adopted for animal health reasons.

As regards normal private storage measures, expenditure amounted to some ECU 43 million in 1988. This is an extremely important market support scheme with a significant influence on market stability and involving relatively low expenditure.

Having also noted that the situation as regards administrative management and control of this type of intervention varied from one Member State to another and was sometimes unsatisfactory, the Commission took the initiative in May 1989 of introducing more detailed rules on control. The Court's suggestions have been incorporated into the draft amendment to Commission Regulation (EEC) No 1092/80 which is being prepared and which is scheduled to be adopted early in 1990.

As regards the exceptional market support measures adopted for animal health reasons, the Court concentrates mainly on the measures taken in Belgium in 1985 and 1986.

This was the first major outbreak in the Community of African swine fever, which is highly contagious among animals. The measures adopted by the Belgian authorities and by the Commission were effective as they prevented the spread of the disease, which would have had incalculable consequences.

As for destruction, the Commission takes the view that it could not have opted *a priori* for this alternative — with its consequences for the Community budget — without first knowing, as was the case, how much meat was involved and whether it could go for human consumption.

The Commission drew on the experience gained in Belgium in dealing with the outbreak of African swine fever in the Netherlands in 1986 and also in the context of eradication measures in Spain and Portugal.

2. NORMAL PRIVATE STORAGE MEASURES

Triggering storage measures

2.7. The Commission considers it preferable to align the basic price with economic reality. This, however, can only be done within the general agricultural price policy, taking into consideration Community price policy in the grain sector (particularly the threshold prices) and in the beef sector (guide price). In the 1990 price package, a reduction of the basic price is proposed.

Moreover, monitoring of developments in the relationship between feedstuff costs and pig prices in the pigmeat sector is at present under examination with a view to its inclusion into Community legislation at Council level (COM 437/89 of 14 September 1989). This provision will go beyond triggering of the intervention measures; it will, in fact, define both the upper and lower price levels which trigger the application of specific measures in the pigmeat sector.

Calculation of aid amounts per unit

2.8. Private storage aids do not cover full storage costs. It is therefore not essential to adapt the amounts of aid to follow medium-term changes in some elements of the calculation. Moreover, while costs of energy and capital (interest rates) have decreased, costs of manpower, transport and investments have increased. It is essential that the aid be attractive to operators in order to make private storage effective when the market needs it.

The Commission considers the amounts of aid have always been calculated at the most appropriate level. Taking into account the particular situation of the pigmeat market, the application of a tendering procedure might well lead to higher amounts on average, since operators would try to

increase the amounts to their advantage. Furthermore, frequent tenders may increase instability in the market.

It should be borne in mind that private storage is the most effective measure of market support in the pigmeat sector. 70 Mio ECU of private storage aid for 200 000 tonnes of pigmeat stored in 1988 is less than 0,4 % of the market value of Community pigmeat production, worth about 17,7 milliard ECU. The market support effect of private storage aid is very striking. In fact, producers might suffer from a 10 % price drop in the spring season if private storage measures were not applied. Furthermore, price stabilization is beneficial for the whole agricultural sector and for the consumer.

Administrative management and control

2.9 – 2.27. The Commission itself has come to the conclusion that there are significant differences in control arrangements between the various Member States, and that certain of these arrangements may be inadequate. Therefore in May 1989 it took the initiative to establish common rules on control measures to be added to Regulation (EEC) No 1092/80 to give clear guidance to the Member States in the framework of a general revision of the Commission's Regulation.

All of the Court's suggestions in points 2.26 and 2.27 have already been included in the draft revision of Regulation (EEC) No 1092/80 which is currently under preparation and scheduled to be adopted early in 1990. It will not only provide for coordination and monitoring of control measures, but will also oblige Member States to create administrative structures capable of carrying out the necessary controls adequately.

The Commission will certainly draw attention to the Court's observations in its discussions with the Member States.

With regard to point 2.12, it should be noted that the Commission has received detailed implementation rules from most of the Member States, in conformity with Regulation (EEC) No 1092/80. As regards clearance of accounts, the Commission has not yet looked into the arrangements made by the Member States in this connection as it has set other priorities for the phasing-in of this new control system.

3. EXCEPTIONAL MARKET SUPPORT MEASURES FOR ANIMAL HEALTH REASONS

Application of the measures in Belgium

General remarks

On 8 March 1985, the first outbreak of African swine fever (ASF) in Belgium was confirmed in a breeding and fattening farm for pigs in Hoogdele (West-Vlaanderen). In the course of the same month, eight secondary outbreaks were confirmed, and three more in May, two of which were detected by serological screening carried out in the infected area. This shows that ASF can be present without clinical symptoms being apparent, and a seemingly healthy animal may still carry the risk of spreading the infection.

On 18 March 1985, Commission Decision 85/192/EEC banned the export from Belgium to other Member States of all pigmeat products except those having undergone a process of complete sterilization in accordance with Article 4 (1) (a) of Directive 80/215/EEC, a method which results in a meat product of low commercial value and for which there is limited demand.

On the same date, 18 March 1985, a first exceptional market support measure (Regulation (EEC) No 688/85) was opened throughout Belgium to stabilize the pigmeat market which was in a situation of paralysis: all movements of pigs were banned in the infected area comprising all West-Vlaanderen and half Oost-Vlaanderen, containing 70 % of the Belgium pig population.

The Belgian pig market, which normally has a self-sufficiency ratio of 150 to 160 % became a net importing area and pigmeat prices rose by about 10 % in the disease-free area. Therefore only a total of 1 992 tonnes was stored during the six weeks of implementation of this Regulation.

In the mean time, the standstill on all movements of pigs, including those intended for slaughter, created increasing problems for the entire pig sector. In this sector it is impossible to stop production: pigs are growing quickly, new piglets come into the fattening houses, and finally an outlet is needed for the pressure if serious difficulties are to be avoided.

While the Belgian authorities approached the Commission seeking authorization to destroy all pigs normally intended for slaughter in the affected area (Zone 1) at the expense of the Community budget, the Commission was not prepared to accept destruction of an unknown quantity of pigmeat. In fact, it was impossible to know at the time whether the disease had been contained, nor whether the meat, would be suitable for human consumption. It was also not known whether heat treatment, different from total sterilization, could be used.

On 27 March 1985, the Commission opened private storage aid by Regulation (EEC) No 772/85, where the amounts of aid were doubled in order to compensate for market risks, and advance payment of 80 % of the aid was provided for. It appeared, however, that the terms of the Regulation were not attractive, and only 589 tonnes were offered for storage.

On 3 April 1985, the Commission installed the principle of 'end-use-guarantee' ('garantie de bonne fin'). This instrument provided that meat put into store between 3 and 15 April 1985 could later be bought in, when it became clear how the meat could be disposed of. (This happened only on 19 July 1985 by Commission Decision 85/403/EEC.)

After this amendment was introduced into the market support measures, 20 771 tonnes were accepted into storage during a two-week period, equivalent to 55 % of the total storage volume. It was achieved by slaughtering, throughout night and day, in the existing slaughterhouses. No destruction plant would have been able to handle such a quantity in a short time.

Within the continuously reducing geographical area affected, another 18 212 tonnes were accepted for storage under several Regulations ((EEC) No 978/85, (EEC) No 1086/85, (EEC) No 1477/85, (EEC) No 1706/85, (EEC) No 2008/85 and (EEC) No 2209/85) between 18 April and 20 September at the same conditions to help the producers in the zone considered infected.

Purchase of private stocks by the intervention agency

3.13. From the outbreak onwards everybody involved (national veterinary authorities, Commission services and private traders) knew that the meat could not be disposed of freely since meat coming from animals which had been slaughtered during the incubation period of the virus, and thus not showing clinical symptoms of the disease, could still be contaminated and infectious. Whilst awaiting the conclusion of research into the best method of treating the meat, it was only necessary to extend the measures for the continuously reducing area of application.

3.14. The heat treatment procedure and consequently the measures for release from storage were finalized on 19 July 1985. It should be recalled that this is the first occasion on which ASF has struck on such a major scale in the Community. Previous cases in Sardinia and Piemonte were of very limited scope in non-exporting regions. When Spanish and Portuguese pig herds were infected with ASF some 25 years ago it was not eradicated and became endemic at incalculable costs. The essential concern was not to repeat this.

As early as April 1985 the Scientific Subcommittee of the Standing Veterinary Committee began to investigate the best way of treating the meat without causing undue damage, and (with advice from the US veterinary services) an acceptable solution was found.

Commission inquiry into the conditions of storage

3.18–3.20. This inquiry was carried out when the Commission became aware of serious storage problems. As indicated above (3.8–3.17), the responsible national authorities intended from the beginning to solve the ASF problem by destruction of the meat at the expense of the Community budget. This may explain why part of the meat was stored without the necessary care, as was later apparent.

Moreover, traders were hesitant to cooperate in the sales action. It was mainly one company which processed 11 500 tonnes or 29 % of the total stock, the remainder being destroyed. Even in the case of destruction, nearly all meat went to one destruction plant, other operators refraining from tendering for the products. The absence of competition in the sales led to decreasing prices in the tender procedure, until it was changed by the Commission into a sales action at fixed prices.

It has been shown that processing of the meat using the special heat treatment researched by the Commission was possible and successful. It could have restricted budgetary expenditure to a much lower level, had it been applied properly to all the meat stored under the measure.

The samples for quality analysis were taken by an authorized independent company from the meat stored in frozen form. They were stored for eight weeks in Belgium, since the Belgian veterinary services, at first, did not allow

the samples to be exported to France and Germany for analysis.

As regards the assessment of storage conditions, it should be pointed out that the major shortcomings mentioned concerned two stores. Checks in the other cold stores did not reveal similar situations.

In the light of the investigation of storage conditions, the Commission could not therefore adopt an attitude other than the one it did adopt in refusing to accept the financing of storage in the two stores regarded as unsatisfactory.

The amended version of the Regulation on private storage aid being prepared does, moreover, include a clause restricting the granting of aid to properly stored products of sound and fair merchantable quality. This reflects, among other things, experience gained in Belgium in 1985.

General assessment of the measures adopted in Belgium

3.22 – 3.26. The Commission disagrees with the general assessment of the Court under this point.

The explanations given above have shown that there was uncertainty both as to the dimensions of this epidemic, and as regards the options available for dealing with the situation. It was uncertain what quantities of meat would have to be destroyed, because when decisions had to be taken it was not clear whether the disease had been contained. If the private storage scheme had been carried out in the way envisaged by the Commission, it is possible that no pigmeat would have had to be destroyed.

It has been proven through the exercise in Belgium that it is possible to produce valuable food products from meat which may have been contaminated with ASF.

It should also be pointed out that obstacles to processing of the meat stored in Belgium were caused by negative reporting in the media, even though it has been proved in Spain and Portugal that there is no harm for humans caused from meat contaminated by ASF.

The Italian Government's ban on meat imports from Belgium at this time was a violation of Community legislation and was prosecuted at the European Court of Justice.

As the criticism put forward under point 3.25 on the buying-in price, it should be pointed out that prices for various cuts are different from carcass prices; it would have been inappropriate to pay the same price for hams and loins, the most valuable cuts, whose coefficients are fixed at 1,45 and 1,62 compared to the carcass price. No such product would have been sold willingly at the price for whole carcasses and there would have been again the danger of uncontrolled marketing.

The increase of 10 % in the price for carcasses compared to the current market price is explained by the fact that 90 % of Belgian pigmeat is of higher quality (grade E and I); furthermore, the difference between Community market prices paid to producers and prices paid at the wholesale level is about 8 %. Offering just the market price for grade II carcasses paid to producers would have made the whole operation a failure from the beginning, with certainly much more damage caused to the Belgian and possibly to the Community pig sector.

As already pointed out the absence of competition caused decreasing prices in the tender procedure. This was also the reason to change the sales procedure into a sale at fixed prices, which were even increased at the end of the sales period, when competition in demand came from the destruction operation.

3.24 (c) . The Commission takes the view that since it was impossible to remove the meat from the area of infection and in the absence of sufficient approved meat storage facilities, the use of cold stores not normally used for storing meat had to be considered on this occasion.

Application of the measures in the Netherlands

3.27. Although the disease occurred in an area of low pig density, the risk of its spreading thus being relatively low, national pig production in the Netherlands is twice that of Belgium, and most of it is not too far distant from the outbreak. The imminent danger for high losses therefore was even greater than in Belgium and contributed to the decision on immediate destruction. Moreover, processing of the meat in Dutch meat factories would have created additional problems for normal Dutch meat production which is principally export oriented (1,1 million tonnes or 64 % of the total production in 1986).

*Evaluation of the operations**The area of infection*

3.32. This is also the reason for the Dutch Government not to reduce the area progressively; the risk of contamination was felt to be far more important than the relatively low amount involved in the market support measure. 18 200 pigs for slaughter and 9 000 piglets amounted to approximately 1 800 tonnes or 0,1 % of Dutch pig production in 1986.

Application of the measures in Italy

3.34. The Commission considers that private storage measures can be used successfully in certain animal disease situations, as the Court itself indicates in paragraph 3.42.

If the Commission had decided to destroy the animals in 1985 following the outbreak of foot-and-mouth disease in Italy, the cost would have been tenfold the cost incurred in the Netherlands. The success of the operation in the case of foot-and-mouth disease is partly due to the fact that, although the same risk of contamination as for ASF exists, it can be prevented by vaccination and therefore can be more easily overcome. Moreover, the ASF outbreaks, in Italy occurred in regions with pigmeat deficits where the meat could be used on local markets, thus avoiding a major risk of spread.

Community regulations governing private storage measures

3.36. It was considered appropriate to follow the outbreaks of foot-and-mouth disease at the level of local health units, rather than at the level of provinces or even regions, which would have been less precise, and the areas declared infected would have been much bigger. This meant that the situation in individual local health areas changed very rapidly and, consequently it was impossible to specify the infected areas in the market support regulations, which would have needed to be changed continuously, causing practical and administrative problems. The Commission, however, was permanently informed of the infected areas and recorded the situation

continuously through the existing Veterinary Information System.

At the time of the outbreak, Council Directive 85/511/EEC of 18 November 1985, establishing Community measures for the control of foot-and-mouth disease, relating to the harmonization of control measures, had not yet been put into effect in Italy. This Directive will certainly improve administrative practice in the case of new outbreaks.

National aid in addition to Community aid in 1986 and 1987

3.37 – 3.39. The Commission initiated the infringement procedure laid down in Article 169 of the EEC Treaty in respect of Italy and this was the subject of a reasoned opinion dated 29 May 1989. This procedure has now been terminated. As it informed the Italian authorities, the Commission may make financial adjustments in connection with clearance of the 1988 accounts as a result of the detected failure to fulfil an obligation.

Financial reporting of exceptional market support measures

3.44. The Commission will investigate the possibility of improving the recording of the cost of exceptional market support measures following outbreaks of disease. Full details are already available concerning payments made under the Veterinary Emergency Fund.

Conclusions concerning the exceptional support measures

3.45. The Commission does not share the Court's view concerning the appropriate budget heading for expenditure on exceptional support measures. These are not disease control measures. They are rather market support measures needed as a result of the restriction of movement following the disease outbreak.

3.46. The Commission itself, at the occasion of the last amendment of Article 20 of Regulation (EEC) No 2759/75

(Regulation (EEC) No 1473/86), considered the possibility of shared financing between the Community and the Member State concerned, but rejected this idea. Exceptional market support turns out to have similar market support effects to normal private storage aids and therefore should not be financed in a different way.

The Court's comment concerning financial participation by Member States in case of outbreaks of animal disease would, if true, be equally applicable to all similar intervention expenditure in all livestock sectors.

3.47. Taking into account the exceptional dimension of the problems caused by the outbreak of African swine fever in Belgium, the Commission cannot accept the severe judgement of the Court.

The Commission is of the opinion that the full cooperation of the Member State concerned would certainly have contributed to a satisfactory result, even though the conditions were exceptional and unfavourable for an easy implementation.

The Commission does not have a well-defined strategy to deal with recurrent problems of animal diseases, which is for example the case with the outbreaks of foot-and-mouth

disease in Italy. However, it is evident that the Commission cannot always be prepared for unforeseeable events such as the outbreak of African swine fever in Belgium, and an immediate response was not necessarily to be expected.

However, further spread of the disease was prevented, which was an absolute priority. Moreover the Commission did draw conclusions from the experience, as is proven in the handling of the case which occurred in the Netherlands one year later.

The experience gained from the measures adopted in 1985 and 1986 has been taken into account in the context of disease eradication; e.g. the systematic approach of serological testing was first developed and applied following the outbreak in Belgium and then successfully applied in Spain. Thus, they have become an integrated part of the strategy for the eradication and control of animal diseases.

In the context of market management during outbreaks of animal diseases, the experience gained has also been very valuable. It must, however, be considered, in each individual case likely to occur in the future, which strategy is the most suitable, taking into account the regional supply situation, the density of production and the scope of the outbreak.

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