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(Information)

COURT OF AUDITORS

SPECIAL REPORT No 19/98

concerning the Community financing of certain measures taken as a result of the BSE crisis,
accompanied by the replies of the Commission

*(submitted pursuant to Article 188c(4)(2) of the EC Treaty)**(98/C 383/01)*

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GLOSSARY

BMPS	(UK) Beef Marketing Payment Scheme: Community-financed aid paid to producers who sold cattle for consumption between 20 March and 30 June 1996
BSE	Bovine Spongiform Encephalopathy
BSP	Beef Special Premium: 100 % Community-financed headage premium
Casualty animal	An animal injured on farm, during transport, at markets, etc.
Cohorts	Groups of animals which received the same (potentially infected) feed when young
CPAS	Calf Processing Aid Scheme: headage premium 100 % Community-financed
EMP	Early marketing Premium: headage premium 100 % Community-financed
MBM	Meat and Bone Meal — dry material that results from rendering animal carcasses
OTMS	(UK) 'Over Thirty Months Scheme': Community part-financed
SBM	Specified Bovine Material. Broadly speaking, the head (including brain but excluding tongue), spinal cord, tonsils and spleen from cattle over 6 months old and the thymus and intestines from cattle of any age
SCP	Suckler Cow Premium: 100 % Community-financed headage premium
SCS	(UK) Selective Cull Scheme: Community part-financed
SEAC	Spongiform Encephalopathy Advisory Committee to advise the UK Ministry of Agriculture, Fisheries and Food and the Department of Health on all matters relating to spongiform encephalopathies
Tallow	Oil produced as a result of rendering animal carcasses
TSE	Transmissible spongiform encephalopathies

EXECUTIVE SUMMARY OF SPECIAL REPORT CONCERNING THE COMMUNITY FINANCING
OF CERTAIN MEASURES TAKEN AS A RESULT OF THE BSE CRISIS

Introduction

Regulations were adopted by the Council to finance, out of the EAGGF, specific measures to deal with the 1996 BSE crisis. They provided for the swift transfer of 1996 and 1997 EU Budget funds to the Member States, allowing them a wide range of choices for the implementation of those measures. About 25 % (ECU 550 million) of the total amount (ECU 2 149 million) was made available to the United Kingdom for the Over Thirty Months Scheme (OTMS) and Selective Cull Scheme (SCS), the rest being distributed to all Member States, roughly in accordance with the size of their national bovine herds. The Council's declared aim was to act quickly to protect human and animal health and to support beef producers. At the time, the latter were already facing an imbalanced market which was near the peak of its production cycle.

In this Report, the Court examines the measures taken to eliminate certain cattle/beef deemed to pose a risk to public health and those taken to support producers and limit production with a focus on Community expenditure.

Elimination measures

These measures are, for the most part, veterinary in nature (normally co-financed at 50 %) but have nevertheless been co-financed by the Community at 70 % and charged to market support under the European Agricultural Guarantee Fund (see paragraph 23).

Concerning the implementation of the elimination schemes considerable weaknesses were found:

- (a) the OTMS, created serious logistical problems for the United Kingdom (see paragraph 27); cross checks for duplicate claims were not performed (see paragraph 29); as a result of the failure to ensure a complete audit trail (see paragraph 31) there was no guarantee that all animals claimed for were disposed of in the manner prescribed by the regulations;
- (b) The decision of the Belgian authorities to take the option not to slaughter and destroy calves imported from the United Kingdom reduced the impact of the measure to restore consumer confidence in beef (see paragraph 35). Although all such calves were slaughtered in France and the Netherlands there is no evidence that all carcasses were properly disposed of (see paragraph 34);
- (c) The deadline set by the Commission for the repurchase of former intervention beef in the United Kingdom was not compatible with the objective of buying back meat that might have come from animals aged over thirty months at the time of slaughter (see paragraph 37);
- (d) Some scientific research suggests that, with regard to the United Kingdom's selective cull scheme it will have only a marginal effect on the eradication of BSE (see paragraph 48); it has not been possible to trace 65 000 of the animals concerned all of which were born before July 1993 (see paragraph 50).

Market measures

The proposals put forward by the Commission prior to the adoption of Council Regulation (EC) No 1357/96 provide exclusively for top-up payments to producers within the framework

of the eligibility for the beef special premium and suckler cow premium. The decision taken by the Council to also grant lump sums to Member States enabled them to extend the aid to other categories of producer (see paragraph 59). Council Regulation (EC) No 2443/96 went even further in this direction in that it allocated ECU 500 million to Member States on the basis of the size of their national beef herd and allowed them to compensate producers in respect of animals not normally entitled to premiums and for which no reliable databases exist. Groups of producers who derive their principal income from sources other than beef production, notably from milk and veal production, also received Community support (see paragraph 69).

The degree of flexibility allowed to Member States resulted in substantial variations in the level of compensation paid for the same category of animals (see paragraph 71). To the extent that recoveries fall short it may not be possible to pay in full all producers whose entitlement to premiums in respect of the calendar year 1996 relates to more animals than 1995 (see paragraph 66).

Concerning the measures taken to control production, the calf processing scheme can be justified on economic grounds (see paragraph 85), whereas some 40 % of the expenditure incurred under the early marketing premium scheme constitutes a gratuitous payment to producers. Whilst it is too soon for the effects of the calf processing scheme to be felt, the impact of the early marketing premium on red meat production is limited and has been achieved at a high cost (see paragraph 88).

Conclusion

The degree to which the Community budget should bear the financial costs of such emergencies merits further consideration, given the quasi-veterinary nature of many of the measures taken in such circumstances.

The failure to adequately monitor the feed ban in the UK meant that a large number of animals which developed BSE (36 000) were born after the ban had been introduced. Different approaches were adopted with regard to the culling of BSE infected herds and the slaughter of British calves which were exported before the export ban.

The controls performed by the clearance of accounts unit focused primarily on the United Kingdom and payments made under Council Regulation (EC) No 1357/96. In addition, numerous visits by the Commission's veterinary officers were made to the Member States. Nevertheless, there was a lack of rigour and consistency in the implementation of measures within and between Member States, in areas such as the slaughter of British calves exported before the ban, the repurchase of ex-intervention beef, cull schemes, compensation to farmers under Regulation (EC) No 2443/96, and the calf schemes.

The inconsistencies in approach undermined the measures taken to compensate farmers equitably. This was due primarily to the fact that the two main measures (Council Regulations (EC) No 1357/96 and (EC) No 2443/96) enabled Member States to make payments not linked to the traditional beef special and suckler cow premia schemes and therefore outside the scope of IACS-controls.

The occurrence of BSE and its aftermath have underlined the urgent need for the EU to design and to adopt a strategy (i.e. Action Plan) to deal, in a coordinated, effective and timely manner with this kind of crisis.

INTRODUCTION

Background

1. BSE was first identified by pathologists at the Central Veterinary Laboratory in Weybridge, England, in 1986. BSE is one of a number of transmissible spongiform encephalopathies (TSEs) a characteristic of which is the presence of an abnormal form of a protein called a prion. TSEs are not contagious and scientific evidence to date suggests that it is acquired by cattle eating fodder that contains the infectious agent.

2. In December 1987 ruminant derived meat and bone meal (MBM) in feed was identified as the most probable cause of BSE ⁽¹⁾. Two main factors are considered to have led to the United Kingdom epidemic: the high proportion of scrapie-infected sheep meat used in rations and the use of rendering processes that did not eliminate the cause of infection. Consequently the United Kingdom introduced a ban on feeding ruminant derived protein to cattle in July 1988 ⁽²⁾. The ban was extended to any animal feed in September 1990 and exports of such feed were effectively banned. In June 1994 Commission Decision 94/381/EC prohibited the feeding of mammalian protein to ruminants throughout the European Union. Commission Decision 94/382/EC of 27 June 1994 introduced alternative heat treatment systems for processing animal waste in order to ensure that plants handling high risk materials inactivate the agents of scrapie and BSE.

3. It is now acknowledged by the United Kingdom authorities that due to cross-contamination of feed the ban was only fully effective from 1 August 1996 ⁽²⁾, when the possession of MBM on premises where livestock feeding stuffs are kept was made illegal ⁽³⁾ by which time some 36 000 BSE cases had arisen in animals born since the 1988 ban was introduced.

4. Legislation making the disease notifiable in the United Kingdom was introduced in June 1988, and it was made

notifiable at Community level in April 1990 ⁽⁴⁾. Since April 1990 ⁽⁵⁾ the carcasses and offal of confirmed cases of BSE must be destroyed. The number of confirmed BSE cases in the EU is shown in *Table 1*. It is clear that the incidence in the United Kingdom is vastly greater than elsewhere but it has been in rapid decline since 1992.

5. It is not known how much of the infective agent has to be ingested before the disease is contracted. Genetic predisposition may also play a role. A low level of maternal transmission occurs (less than 10 %) but this in itself would not perpetuate the disease ⁽⁶⁾. There is some doubt as to whether BSE can occur spontaneously, i. e. cannot be attributed to contaminated feed or vertical transmission.

6. On 20 March 1996 the United Kingdom Government announced that there might be a link between BSE and a new variant of Creutzfeldt-Jakob's disease (nvCJD), a fatal disease in man ⁽⁷⁾. The incubation period in man is unknown but, by analogy with other human TSEs, may be up to 30 years. As at 1 July 1998, there were 27 definite or probable cases of nvCJD in the United Kingdom and one in France. No reliable forecast exists of the number of people who may yet develop the disease as a result of eating contaminated beef products many years ago. The United Kingdom Government's announcement was to have far-reaching economic consequences for the EU beef and veal sector.

7. On 27 March 1996 the Commission formally decided (Commission Decision 96/239/EC) to ban all beef exports from the United Kingdom both to the rest of the EU and to third countries. On 21 June 1996 the Florence European Council agreed a framework for the removal of the ban ⁽⁸⁾. On the 17 March 1998 the Council adopted

⁽¹⁾ *BSE in Great Britain: A Progress Report* (June 1997) Ministry of Agriculture, Fisheries & Food.

⁽²⁾ The BSE order 1988 (*Statutory Instrument 1988 No 1039*) prohibits the sale, supply and use of certain feedingstuff for feeding to ruminants, initially for a specified period but extended indefinitely in December 1989.

⁽³⁾ The BSE Order 1996 (SI 1996/2007).

⁽⁴⁾ Commission Decision 90/134/EEC (OJ L 76, 22.3.1990, p. 23).

⁽⁵⁾ If BSE is confirmed the animal must be destroyed under Article 2 of Commission Decision 94/474/EC (OJ L 194, 29.7.1994, p. 96).

⁽⁶⁾ *Spongiform Encephalopathy Advisory Committee* (SEAC) *Statement on maternal transmission* (17 April 1997).

⁽⁷⁾ On 18 September 1997 the Commission's Advisory Committee on Dangerous Pathogens (ACDP) concluded that the BSE agent should be classified as a human pathogen.

⁽⁸⁾ The five pre-conditions are: 1. implementation of a selective slaughter programme; 2. introduction of an effective animal identification and movement recording system; 3. legislation for the removal of mammalian MBM from feed mills and farms; 4. effective implementation of the OTM rule; 5. improved methods for removing SBM from carcasses.

a Decision allowing for the partial lifting of the ban in respect of Northern Ireland.

8. Beef prices throughout the EU fell as consumers stopped buying beef. In April 1996 the first of a series of emergency measures was taken at Community level in order to alleviate the situation. Broadly speaking the measures fall into two categories: those aimed at eliminating animals/meat regarded as 'suspect' for one reason or another and market measures in the form of producer support (additional headage payments and slaughter-based compensation for income losses) and production control via the slaughter of young calves and an early marketing premium.

9. The Court previously reported⁽⁹⁾ on aspects of the earlier schemes and has continued its inquiries in Belgium, Germany, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom which together account for 90 % of Community expenditure on BSE related measures. All BSE related measures for which expenditure has been charged to the Community budget in 1996 and 1997, with the exception of public storage costs and export refunds, have been examined from both a legality/regularity and from a value-for-money point of view⁽¹⁰⁾.

10. The total Community expenditure on BSE related measures for 1996 and 1997 was ECU 2 149 million — *Table 2* gives a breakdown by Member State. This represents a 32 % increase, in relation to the normal premium scheme expenditure (i. e. excluding public storage and export refunds), for the two years.

11. The huge sums involved attracted considerable attention at Member State and Community level. During the period from May 1996 to July 1998 the clearance of accounts unit made one visit to six Member States, two to France and three to Germany to audit various BSE related measures. For the most part, attention has focused on the payments made under Council Regulation (EC) No 1357/96 and, to a lesser extent, the measures taken under Council Regulation (EC) No 2443/96. In addition, it has made several visits to the United Kingdom to audit the OTMS, SCS and latterly the CPAS. Most of the expenditure under the EMP, the herd cull schemes, destruction of exported British calves, and Council Regulation (EC) No 2443/96, has not been subject to audit by the Commission. Despite numerous

visits to the Member States by the Commission's veterinary officers, recent inspections have shown that the regulations are not being respected with regard to animal feed and the treatment of MBM. Infringement proceedings against 13 Member States are still in progress⁽¹¹⁾.

European Parliament's Report

12. The European Parliament set up a temporary committee of inquiry into BSE on 18 July 1996⁽¹²⁾. It heard evidence from a wide variety of sources, including Commissioners and Commission officials, scientific experts, and national representatives. The committee reported in February 1997⁽¹³⁾. Its report focused on the period up to the start of the crisis in March 1996, with an emphasis on the public health implications of BSE.

13. The report was very critical of both the EU institutions and the United Kingdom authorities. In addition to the report's findings relating to public health, it concluded that the Commission's organisation structure and decision-making system were ineffective in dealing with BSE. The Commission's controls over the manufacture and use of meat and bone meal (MBM) were found to be ineffective, and the Commission was criticised for not carrying out BSE related inspections in the United Kingdom between June 1990 and May 1994. The Council was criticised for not dealing specifically with BSE between June 1990 and July 1994, and for not taking steps to enforce the United Kingdom export bans.

14. Regarding the United Kingdom, the report concluded that BSE stemmed from the introduction into the United Kingdom of revised MBM manufacturing processes which did not destroy the infective agent. The ban on feeding MBM to ruminants was reported to be ineffective, and the United Kingdom was criticised for failing to prevent manufacturers from continuing to export MBM to other countries after it had already banned its use for ruminant feed in the United Kingdom. The report found that legislation and agreements at both national and EU level — relating to animal identification records, use of MBM and the beef export ban — were not complied with by the United Kingdom authorities.

15. Many recommendations were made in the Report. In addition to those specifically related to public health issues, they covered areas such as the decision-making process within the Commission, improvements to the regulation of animal feeds, obliging the United Kingdom

⁽⁹⁾ Court of Auditors Annual Report 1996, paragraphs 4.61—4.75.

⁽¹⁰⁾ The enforcement of the export ban has not been examined.

⁽¹¹⁾ COM(98) 282.

⁽¹²⁾ OJ C 261, 9.9.1996.

⁽¹³⁾ A4-0020/97.

authorities to pay for the crisis, and ensuring that all cases of BSE were reported in the EU. A follow up committee of enquiry was established in April 1997⁽¹⁴⁾ to monitor progress by the Commission in implementing these recommendations. It considered several progress reports from the Commission, and reported in November 1997⁽¹⁵⁾. The Committee reported that most of the recommendations had been acted on by the Commission.

PRINCIPAL FEATURES OF THE MARKET

16. The normal beef production cycle is five to six years. Production reached an all time high in 1991 and would have peaked again in 1996 had it not been for the effects of the measures taken to mitigate the impact of the BSE crisis. Measures such as the calf processing scheme and early marketing premium coupled with the United Kingdom's over thirty months scheme have held overall production in check just below the 8 million tonnes mark (see *Table 3*) but their full impact will not be felt until the cycle is in its down phase.

17. In 1995 consumption was 7,5 million tonnes, it fell by more than 500 000 tonnes in 1996 largely due to the BSE crisis but made a partial recovery in 1997 to 95 % of its 1995 level. In *per capita* terms consumption recovered from a low of 18,6 kg in 1996 to 19,1 kg in 1997 but was not sufficient to offset production and is not expected to reach 1995 levels in the near future.

18. The fall in demand for beef led to reduced prices. Between January and June 1996, prices for R3 quality young bulls had fallen by an average of 10 % in the EU. Prices recovered by September 1997 to an average 7 % lower than they were at the beginning of 1996.

19. EU exports of beef (excluding live animals) have been falling steadily in recent years, from 1,24 million tonnes in 1991 to 0,96 million tonnes in 1996. Exports for 1997 are estimated at 0,94 million tonnes. The level of imports has varied more, and has fallen from 0,45 million tonnes in 1991 to 0,36 million in 1996. The scope for subsidising exports is limited under the GATT agreement and preferential access must be given to imports from associated countries under the Europe Agreements.

⁽¹⁴⁾ OJ C 150, 19.5.1997.

⁽¹⁵⁾ A4-0362/97.

20. As a consequence of the BSE crisis, the intervention ceilings initially set for 1996 and 1997 were increased by 150 000 tonnes for each year. From a situation of negligible stocks in 1995, by the end of 1996 the level had reached 434 000 tonnes and as at December 1997 stood at 629 000 tonnes (see *Table 3*).

21. BSE had serious consequences for intra-Community trade and third country exports, in particular for the United Kingdom which has been subjected to a total ban but also for individual Member States that have lost major customers.

ELIMINATION MEASURES

Introduction

22. The Community-financed measures taken for the elimination from the food chain of animals/meat deemed to pose a risk to public health were as follows:

- (a) The United Kingdom Government introduced a scheme to remove from the food chain all meat from cattle over thirty months (OTMS) which were deemed to be of the group of animals most at risk of manifesting the disease (Commission Regulation (EC) No 716/96 of 19 April 1996);
- (b) The purchase and destruction of calves which had been exported from the United Kingdom to France, Belgium and the Netherlands for veal production prior to the introduction of the ban (Commission Regulation (EC) No 717/96 of 19 April 1996);
- (c) A measure was introduced in the United Kingdom providing for the repurchase of former intervention beef and destruction of meat in intervention which had been purchased prior to 27 March 1996 (Commission Regulation (EC) No 1757/96 of 10 September 1996);
- (d) Cull schemes for Portugal and the United Kingdom (July 1996), France and Germany (early 1997) and Ireland (June 1997).

23. The total cost of these measures for the EAGGF budget years 1996 and 1997 was ECU 620 million, 85 % of which relates to the OTMS (see *Table 2*). Unlike the premium schemes that are the basis of the traditional market support, these schemes are of a quasi-veterinary character and are only part financed from the Community budget (70 %). By comparison, in the case of classical swine fever, slaughter for veterinary purposes is

co-financed at 50 %. For the selective cull there would seem to be more reason to treat the expenditure (ECU 26 million) as veterinary rather than market support.

The United Kingdom over thirty months scheme (OTMS)

24. The United Kingdom Government's Spongiform Encephalopathy Advisory Committee (SEAC) recommended in March 1996, that cattle over thirty months old be deboned in licensed plants under official supervision but it did not suggest that the meat be treated as unfit for human consumption. Nevertheless the Government decided⁽¹⁶⁾ to remove all beef from OTM cattle from the human and animal food chains on the grounds of rebuilding consumer and market confidence.

25. Cattle with BSE are slaughtered before symptoms show and the number of confirmed cases is thereby greatly reduced. Nevertheless, it has been treated as an intervention measure to stabilise the agricultural market. The Commission agreed to co-finance the compensation aspect of this measure with effect from 29 April 1996, and has spent ECU 513 million up to the end of 1997. From the Community point of view it represents a significant burden on the budget and one that will continue. The United Kingdom recognises its failure to properly enforce, until August 1996, the ruminant feed ban introduced in July 1988⁽¹⁷⁾. This has extended the period where BSE infected animals (which have not yet developed symptoms) may be present in the herd. The United Kingdom authorities estimate that there are some 5,5 million cows born before 1 August 1996 that have yet to be entered into the scheme. At current rates of funding, if all these animals were processed under the scheme, it would cost the EU budget a further ECU 1,6 billion.

26. Under Commission Regulation (EC) No 716/96 of 19 April 1996 the United Kingdom designated authority may buy cattle aged over 30 months which have been kept on farm for at least three months (this period was increased to six months with effect from 25 November 1996 under Regulation (EC) No 2149/96 of 8 November 1996) and which show no signs of BSE. The United Kingdom must pay the producer on the basis of the animal's weight whereas the Community pays the United Kingdom a fixed amount per animal on proof of

destruction. The rate was initially set on the basis of the 'most recently observed price of carcasses of cows on the United Kingdom market' of ECU 1 per kg for a cow with a notional weight of 560 kg. Community financing was fixed at 70 % of this price i. e. ECU 392 and has been reduced twice to reflect developments in market prices. As regards bulls, steers and heifers, co-efficients to convert from live weight to dead weight were adjusted from 2:1 to 1,7:1 in August 1996. Differentiated aid rates were introduced a year later.

27. Implementation of the OTMS has been fraught with difficulties due to the sheer number of cattle involved and the complicated procedures adopted by the United Kingdom authorities. Cattle may be presented through some 200 livestock markets or direct to some 60 abattoirs. Producers are not obliged to present their old cows for slaughter but they cannot sell them. The vast majority of animals submitted under the scheme have been cull cows. From the outset there was a backlog of 150 000 cattle (between 20 March 1996 and the introduction of the scheme such cattle were not being processed) which could not be cleared until December 1996. The rendering facilities did not have the capacity to cope with the abattoir throughput so 177 000 carcasses were sent to cold stores. The carcasses were later removed and rendered by the end of 1997. The very limited incinerator capacity means that huge quantities of MBM and tallow have been put into store (328 000 tonnes and 170 000 tonnes respectively as at June 1998) and will take many years to eliminate unless capacity can be increased and or the material is used as landfill and/or exported (currently not allowed).

28. The Court and the Commission found that, during the early months of the scheme, controls were not operating effectively. At various stages there were difficulties reconciling the output (weight) from the abattoirs/cold stores to the rendering plants and thence to the stores of rendered material. Security over the latter was particularly weak. The Court concludes that there is little assurance that all the animals submitted under the OTMS have passed through to incineration or storage in the form of MBM and tallow.

29. Many improvements in the control procedures have subsequently been made but some important cross-checks have yet to be completed. The ear tag numbers of OTMS cattle and individual weights were not entered on the computer database until 4 August 1997 by which time 1,6 million animals had been slaughtered. Such information is now being entered but had not been

⁽¹⁶⁾ The Beef (Emergency Control) Order 1996.

⁽¹⁷⁾ BSE in Great Britain: A progress report, December 1997.

completed as at April 1998. A partial cross-check has been carried out between OTMS and the Beef Marketing Payments Scheme (BMPS) ear tag data. This revealed some 5 000 cases of the same ear tag number entered under each scheme or appearing twice under the same scheme. Further cross-checks are necessary in order to detect possible duplicate payments both within the OTMS and *vis-à-vis* other schemes such as the selective cull and in order to substantiate claims for Community financing.

30. Under Commission Regulation (EC) No 716/96 the United Kingdom could only claim Community aid for animals destroyed (incinerated). The Regulation was modified⁽¹⁸⁾ with effect from 26 September 1996 to allow for an advance of 80 % on the basis of the number of carcasses rendered. The failure to record vital information on the computer database from the outset meant that claims submitted by the United Kingdom authorities were inaccurate not only with regard to the number of carcasses rendered but also concerning the number destroyed (casualty animals sent direct to incinerators).

31. A batch system has been introduced whereby all 2 million animals slaughtered prior to 4 January 1998 are treated as batch 1 and thereafter weekly batch controls come into effect. For batch 1 the quantity of MBM in store will be divided by the total number of animals slaughtered and the resulting quantity will be used to estimate the number of animals destroyed as the MBM is incinerated. This will form the basis of the claim for the 20 % final balance which, as at the end of 1997, represents some ECU 100 million. This estimate will also be inaccurate to the extent that the MBM includes non-scheme material such as specified risk material from sheep, cull scheme carcasses and rejected OTMS cattle. Payments in respect of this first batch cannot therefore be fully verified.

32. Given that appropriate systems to ensure an adequate audit trail were not introduced from the outset, the Commission has informed the United Kingdom that it has reserved its position on financing the first 250 000 animals slaughtered under the OTMS. This reserve

represents approximately ECU 80 million in terms of the advance already paid to the United Kingdom.

British calves exported before 20 March 1996

33. Commission Regulation (EEC) No 717/96 of 19 April 1996 provided for the purchase and destruction of calves imported from the United Kingdom and present on a holding in France, the Netherlands and Belgium on 20 March 1996. The purchase price was based on the prevailing market price for calves, 70 % of which was financed by the Community. This measure was introduced because the possibility that calves imported prior to the export ban of 21 March 1996 might enter the human food or animal feed chains had led to a lack of consumer confidence. The measure was optional for the Member States concerned. France and the Netherlands destroyed some 79 500 and 59 500 calves respectively.

34. In France the Court found inadequate controls over the transport of carcasses (lorries were not sealed) to rendering plants and the failure to systematically stain them. Moreover, proof of incineration is only available on a global basis — the carcasses formed only a part of the total material destroyed. In the Netherlands the authorities were unable to reconcile a difference of 872 calves between veterinary records and the identification database.

35. Belgium decided not to adopt the measure and the 20 000 calves concerned were slaughtered and sold for consumption through normal commercial channels. Given that there were no export restrictions, this reduced the effectiveness of the measure.

Repurchase of ex-intervention beef

36. Commission Regulation (EC) No 1757/96 of 10 September 1996 provides for the repurchase and destruction of beef sold from intervention before the 27 March 1996 and the destruction of old stocks of boneless beef still in intervention in the United Kingdom. Old stocks should have been destroyed by 31 March 1997 but due to a lack of incineration capacity the deadline was extended to 31 October 1997. 5 328 tonnes of residual intervention stock were destroyed and GBP 4,1 million (ECU 5,4 million) was written off. Applications for repurchase had to be submitted by 18 September 1996 and was voluntary. In total, 650 tonnes of meat was repurchased at a cost of GBP 2,4 million (ECU 3,2 million, of which ECU 2,4 million was borne by the Community budget).

⁽¹⁸⁾ Commission Regulation (EC) No 1846/96 (OJ L 245, 26.9.1996, p. 9).

37. The deadlines set by the Commission were tight, payment for the products taken over had to take place by 15 October 1996. This constraint was not compatible with the objective to buy back meat that might have come from animals over thirty months old at the time of slaughter in order to remove it from the market⁽¹⁹⁾. According to the Commission, this deadline was influenced by the wish to avoid the risk of fraud.

Cull schemes

Herd culls

38. Portugal, France and Ireland⁽²⁰⁾ have implemented whole herd cull schemes financed by the Community. A slaughter and destruction policy for all animals in herds where cases of BSE have occurred has been adopted.

39. The slaughter of an entire herd is justified on scientific grounds if all the animals in it may have been exposed to the same feed as the BSE case. Other reasons not connected with the eradication of the disease have also motivated such an approach. For example, an objective stated in the Irish Plan for the control and eradication of BSE is to satisfy the requirements of third country markets and restore consumer confidence by depopulating herds in which BSE occurs and destroying animals imported from the United Kingdom thereby acquiring a BSE free status as quickly as possible. Even if the BSE infected cow has only been on the holding for a matter of weeks and could not possibly have been infected there, the entire herd is slaughtered. In one example this led to the slaughter of 738 cattle for which the herdowner was paid ECU 570 000.

40. The Regulations permit Portugal and France (but not Ireland) to make supplementary payments. In the case of Portugal aid is paid for 'lost productive value', and far exceeds the amount paid for direct compensation whereas for France the contrary is true. The proportion of the total compensation paid to the producer met from

the Community budget therefore varies considerably — from 27 % for Portugal to 70 % for Ireland (see *Table 4*).

Germany

41. For the five BSE cases reported in Germany up to January 1997 the whole herd has been slaughtered, and the producers have been compensated from national funds. The BSE cases were all animals originating in the United Kingdom. Following the January case it was decided to slaughter all cattle imported from the United Kingdom and Switzerland in order to eliminate the risk of these animals manifesting the disease.

42. Under Commission Regulation (EC) No 299/97⁽²¹⁾ the Community co-finances 70 % of the compensation paid subject to a ceiling of ECU 735 per animal. The Regulation covers cattle born in the United Kingdom or Switzerland or direct descendants of such animals up to a maximum of 19 200 animals. However, since March 1997 the direct descendants have only been subjected to surveillance and the number of animals destined for slaughter was thereby reduced to 5 633. More than 1 000 of these animals have been the subject of judicial appeals by the producers against the slaughter notices. These appeals are founded on the lack of proof that BSE is contagious.

43. The Commission justified the Regulation with reference to Article 23 of Commission Regulation (EEC) No 805/68 according to which 'in order to take account of the restrictions on free circulation which may result from the application of measures for combating the spread of disease in animals, exceptional measures of support for the market may be taken'. In this regard it should be noted that:

- (a) the 'restrictions on free circulation' were imposed in March 1996 on cattle imported from the United Kingdom⁽²²⁾, long after the importation of the cattle concerned, which were not therefore subject to such restrictions;
- (b) no such 'restrictions on free circulation' have been imposed on cattle from Switzerland in the EU.

44. Compensation payments made for the slaughter of animals to which no Community restriction on free circulation applies cannot be regarded as a market support measure in this context. The expenditure under

⁽¹⁹⁾ After the closing date for applications three traders contacted the United Kingdom intervention agency to ask them to buy back meat (26 tonnes). An additional 450 tonnes were known to be in free circulation but were not re-purchased under this Regulation.

⁽²⁰⁾ Commission Regulation (EC) No 1508/96 (OJ L 189, 30.7.1996, p. 86), Commission Regulation (EC) No 164/97 (OJ L 29, 31.1.1997, p. 1) and Commission Regulation (EC) No 1112/97 (OJ L 162, 19.6.1997, p. 17), respectively.

⁽²¹⁾ Commission Regulation (EC) No 299/97 of 19 February 1997 adopting exceptional support measures for the beef and veal market in Germany (OJ L 50, 20.2.1997, p. 16).

⁽²²⁾ See first 'whereas' of Commission Regulation (EC) No 299/97.

Commission Regulation (EC) No 299/97 (ECU 3,2 million) lacks a valid legal basis.

The United Kingdom selective cull

45. Commission Decision 96/385/EC of 24 June 1996 approved the United Kingdom eradication plan and Commission Regulation (EC) No 1484/96 of 26 July 1996 authorised the United Kingdom to pay compensation for animals slaughtered in accordance with the selective cull set out in this plan. A selective compulsory slaughter of animals and/or herds in birth cohorts born in 1990/1991, 1991/1992 and 1992/1993 which have been identified as being most likely to have eaten infected MBM was specified in the original plan but was modified to include the 1989/1990 cohort on a voluntary basis. More than 60 % of the 324 000 animals identified as at March 1998 were born in the voluntary cohort year. To qualify, animals must be on farm as at 1 August 1996.

46. Compensation to farmers is based on the objective market value of each animal concerned and is 70 % financed by the Community. The United Kingdom was also authorised to make supplementary payments from national funds.

47. Article 2 of Decision 96/385/EC required the United Kingdom to bring into force by 1 August 1996 the laws, regulations and administrative provisions necessary to implement the plan. Proposals for a selective cull were first put forward in May 1996 and were based exclusively on the feed-borne supposition. The cull was expected to start in September or October 1996 but on 1 August 1996 SEAC advised the Government to consider the implications of research findings concerning maternal transmission of BSE and the cull was put on hold.

48. Details of the research were published on 29 August⁽²³⁾. According to this research the epidemic would virtually die out around 2001 irrespective of any further measures. Nevertheless, the United Kingdom was bound by the framework agreed by the European Council on 21 June 1996⁽⁸⁾ to implement a selective cull as a precondition for lifting the export ban but did not proceed with it until early 1997.

⁽²³⁾ Transmission dynamics and epidemiology of BSE in British cattle by Anderson et al, Nature, 29 August 1996.

49. Cohort definitions were modified in June 1997. The new definition means that some animals that had already been culled would no longer be included. The new rules have not been applied retrospectively but farmers whose herds were under provisional notice at the time could request reassessment, some 200 did so. The parameters for cohort tracing have also been modified and an amendment to the Eradication plan was approved in December 1997⁽²⁴⁾. These changes have further delayed the completion of the cull.

50. In Great Britain⁽²⁵⁾ by June 1998, 229 000 animals had been slaughtered, of which 71 000 under the selective cull, and 158 000 prior to its introduction. For a further 65 000 animals the absence of a full traceability system and inadequate farm records meant that they could not be traced⁽²⁶⁾.

51. The purpose of the SCS is similar to that of the OTMS in that it aims to prevent BSE cases appearing, although it is more selective. The two schemes overlap in the sense that many potential cull animals have already been eliminated under the OTMS (21 500 as at April 1998). Given that the average level of compensation paid to the producer is three times higher under SCS than under OTMS and the Community contribution is more than twice as high [ECU 790 against ECU 370 (see Table 4)], this has saved the Community an estimated ECU 9 million. Conversely, producers that think they will be included in the SCS are unlikely to put forward eligible animals under the OTMS.

52. In practice, compensation for cows of any age is based on the replacement value of young cows. Cows culled under the SCS are generally old and are worth on the market on average only 50 % of such a value. Compensation has been relatively high (see Table 4), on average ECU 2 000 per head (and as much as ECU 250 000 for a pedigree bull). The necessarily voluntary nature of the 1989/1990 cohort and the lack of adequate records reduce the effectiveness of the SCS.

Compensation for BSE cases

53. Community legislation⁽⁵⁾ requires that the carcasses of BSE cases be destroyed but this has not always happened; the first Belgian and Luxembourg BSE carcasses

⁽²⁴⁾ Commission Decision 97/870/EC.

⁽²⁵⁾ In Northern Ireland all 1 461 animals still alive were traced through the computerised system and have been slaughtered.

⁽²⁶⁾ BSE in Great Britain, B June 1998, Progress Report.

were rendered (in September and October 1997) into bonemeal that was sold in several Member States and exported to third countries. In both cases the suspect animals were initially tested for rabies, the results of which proved negative. The heads of the animals concerned were subsequently tested for BSE. The latter test results were positive but were not available until several weeks after the carcasses had been rendered. The other animals in the infected herds were destroyed.

54. All Member States have a system of compensation for cattle killed as BSE suspects. Compensation is generally lower for confirmed cases and differs considerably by Member State (see *Table 5*). In France the average paid is half that paid in Ireland. Italy does not pay compensation for animals that contracted BSE before they were imported. The Community does not contribute towards the cost of compensation for BSE infected animals.

55. The lack of, or low level of, compensation for diseased animals may explain why so few cases have been reported in some Member States (see *Table 1*). According to the Irish authorities BSE has been found in cattle imported not only from the United Kingdom but also in two mature cows within months of their importation from the Netherlands (which had only declared two cases up to 31 December 1997) and similarly for one mature cow imported from Denmark. According to one analysis⁽²⁷⁾, during the period 1985 to 1989, the number of potential BSE cases imported by other Member States from the United Kingdom should have been around 1 600 whereas by the end of 1997 only 400 cases had been reported. This is partly due to the absence of a standardised surveillance system and varying levels of awareness of BSE which may result in underdetection and misdiagnosis as illustrated in paragraph 53. Moreover, many of the reported cases in the Member States do not relate to cattle born in the United Kingdom. For the most part the animals developed BSE apparently as a result of eating contaminated feed.

MARKET MEASURES

Introduction

56. In parallel to the elimination measures, two Regulations were adopted by the Council to provide a total of ECU 1 350 million by way of market support. In addition, ECU 16,7 million were spent on private

storage for veal. In order to reduce the anticipated overproduction of beef, controls were introduced in the form of an early marketing premium and calf processing aid (ECU 200 million).

Producer support

57. Council Regulation (EC) No 1357/96 provides for additional payments to be made in 1996 with the beef special premium (BSP) and suckler cow premium (SCP) as well as allocating specific amounts to Member States (ECU 261 million). The aid is for producers in the beef and veal sector who are 'facing acute problems as a result of the market situation. . .'. Member States could choose either:

- (a) To make standard headage payment supplements (Articles 1 and 4(a)) of ECU 23 per animal for beef special premium and ECU 27 per animal for suckler cow as well as distributing the specific amount on a similar or different basis or;
- (b) Under Article 5, to use the total amount that would have been paid using these standard rates together with the specific amount to make payments according to objective criteria, provided that the total amount did not exceed the loss of income or distort competition (Article 5). All payments had to be made by 15 October 1996 in order to qualify for Community finance.

Disparity of aid rates

58. With regard to supplements to the standard BSP and SCP payments, *Table 6* shows that there is an enormous variation between Member States, ranging from zero in Italy to ECU 46 per head in France for male bovines and ECU 7,5 in Germany to ECU 81,6 in Belgium for SCP.

59. Information obtained from Member States shows that some payments were made to producers for animals that would not normally qualify for the standard beef special premium and suckler cow premium on the basis that income loss was not confined to the sectors traditionally supported by the Community. In some cases this meant that producers received payments in respect of animals in excess of the 90 head limit applied for the beef premium scheme or where the stocking density criteria were not met (ECU 11 million in France). Payments for a different category of animal such as dairy cows (ECU 11 million in Belgium) and veal calves (ECU 7 million in the Netherlands) and supplementary payments in respect of

⁽²⁷⁾ 'Risk of BSE from the import of cattle from the UK into countries of the EU' by B. E. C. Schreuder et al, *The Veterinary Record*, 23 August 1997.

animals already slaughtered/sold (ECU 16 million in Ireland and ECU 64 million in Italy and ECU 34 million in the United Kingdom ⁽²⁸⁾) were also made.

60. Consequently the aid was paid to a wider base of producers in these Member States. For example, if compensation had been paid solely on the basis of entitlement to premiums, in the Netherlands only 30 % of producers would have received compensation for their loss of income. Member States were not told how to calculate income loss and produced calculations using different assumptions. It is therefore not possible to compare the figures or test their validity in any detail. Whilst there is some evidence to suggest that certain sectors may have been overcompensated, several Member States updated their assumptions and produced radically different figures to demonstrate that overall losses exceeded any compensation granted. The situation was further complicated by the fact that other measures later introduced by the Commission had an effect on prices that could not be foreseen when the *ex ante* estimate of losses was carried out.

61. Some Member States avoided the problems associated with the sectoral analysis of estimated income loss by paying a flat rate across the board. For example, Germany paid ECU 7 for each animal registered with the 'Tierseuchenkasse' (animal sickness fund) for 1996.

Controls

62. The Court's audit of Regulations (EC) No 1357/96 and (EC) No 2443/96 did not include the systems used to make standard headage payments under the premium schemes which were examined and reported on in its Annual Report for 1996 (see paragraphs 4.45–4.60).

63. Many of the schemes adopted by the Member States fall outside the scope of the integrated administrative control system (IACS) which, as far as animals are concerned, relates to premium schemes (beef special, suckler cow, transformation and early marketing, deseasonalisation and extensification — to which Article 4(a)-(k) of Regulation (EEC) No 805/68 refers). The extent to which beneficiaries are subject to inspection is therefore left to the discretion of the Member States.

⁽²⁸⁾ For observations on the application of this measure in the United Kingdom see the 1996 Annual Report.

64. Council Regulation (EC) No 820/97 of 21 April 1997 was introduced in recognition of the need to improve traceability given that the implementation of Council Directive 92/102/EEC of 27 November 1992 concerning the identification and traceability of bovines proved unsatisfactory. The Regulation aims to re-establish stability in the beef and beef products market in the wake of the BSE crisis but the deadlines for the introduction of certain key elements are distant. For example, the computerised databases must be fully operational by 1 January 2000 and double ear tagging applies only to animals born after January 1998. Such animals must also be identified in a passport. It is therefore too soon to see the benefits of the new system taking effect although some Member States have already introduced some of the controls foreseen. In the United Kingdom for example, cattle passports were made compulsory with effect from 1 July 1996.

Recoveries

65. Member States that have made payments under the terms of Article 1, i.e. based on 1995, must recover overpayments from producers who did not apply for the BSP and/or SCP in respect of the 1996 calendar year or whose claims are for fewer animals than the previous year. Article 3 states that with the money so recovered, Member States should make further additional payments to those whose claims for 1996 relate to more animals than for 1995.

66. The requirement to recover payments made has proved to be an administrative burden; for example, matching claims in cases where holdings have been restructured and dealing with retired, deceased and bankrupt cases. France, as at the time of audit (July 1997), had only recovered 60 % of the invoiced amount. The United Kingdom recovered 96 % of the amount due and has redistributed the money to qualifying producers. No further redistribution is envisaged. It is therefore unlikely that Member States will be able to recover 100 % of the amount due. To the extent that recoveries fall short it may not be possible to pay in full all producers whose entitlement to premiums in respect of the calendar year 1996 relates to more animals than 1995.

67. Member States that have applied Article 5 consider that they do not need to make recoveries even though they have paid aid on the basis of 1995 claims. For example Luxembourg paid ECU 0,6 million to producers on the basis of 1995 BSP claims and Belgium paid ECU

28,5 million on the basis of 1995 claims for the BSP and SCP. This constitutes a further example of the inequality of treatment of producers in the Member States.

Direct support

68. Council Regulation (EC) No 2443/96 of 17 December 1996 allocated a total of ECU 491,63 million to Member States on the basis of the size of national herds in order to make payments according to objective criteria to support producers' incomes or the beef and veal sector, providing these payments do not distort competition. The Regulation did not specify how the payments were to be made but stipulated a deadline of 15 October 1997. Unlike Regulation (EC) No 1357/96 there was no requirement for income loss to be taken into account.

69. Member States had more time to prepare measures under this Regulation than they had for Regulation (EC) No 1357/96. This is reflected in the greater variety of schemes adopted. In some cases, such as Germany, no attempt was made to target the aid at particular sectors: the same blanket approach was used as under Regulation (EC) No 1357/96 but the rate of aid was lower (ECU 6). Certain Member States chose to use some of their allocation for quality control/improvement initiatives — for example Belgium (ECU 0,5 million) and the United Kingdom (ECU 3,5 million). Once again supplementary headage payments were the commonest form of assistance. For example, the United Kingdom applied a single headage payment (ECU 40) for all 1996 suckler cow claimants whereas Ireland, for example, paid ECU 7,8 per BSP and ECU 15,6 per SCP. Slaughter-based schemes were also used to a greater extent. Some schemes were more structural in nature — Luxembourg paid on the basis of livestock units used to calculate compensatory aid and Belgium introduced a cessation premium designed to encourage beef producers to retire. Italy and the Netherlands gave further support to the veal industry.

70. In France the aid was distributed on a Departmental basis. In setting aid rates, Departments had to take into account aid already paid under Regulation (EC) No 1357/96 and target this aid on recent losses which had not already been compensated. This decentralised approach enabled each Department to distribute aid

according to regional priorities whereby farms in close proximity are paid different rates of compensation.

Effectiveness

71. Council Regulations (EC) No 1357/96 and (EC) No 2443/96 have been applied very differently in the Member States. Failure to link aid under Regulation (EC) No 2443/96 to income losses increases the likelihood of inequitable distribution of aid and overcompensation. To this extent the French decision to make this link is to be welcomed. The proliferation of measures and variation in the amounts paid partially reflect the different reactions of consumers in the Member States but do not fully explain them.

Production control

Introduction

72. Council Regulation (EC) No 2222/96 of 18 November 1996 required Member States to implement either the calf processing aid scheme (CPAS) and/or the early marketing premium (EMP) by 1 December 1996 for the period ending 30 November 1998. In response to the BSE crisis, the United Kingdom and Portugal already applied the CPAS with effect from April and May 1996 respectively. France had also decided to apply the scheme from October 1996. Ireland was the only Member State to adopt it as a direct result of the requirements of the Regulation but it did so two months after the deadline. Approximately 1,5 million calves had been processed under each scheme by the end of 1997 (Tables 7 and 8).

73. The purpose of the two schemes was to reduce the number of calves going into red meat production by 1 million per annum. The CPAS was the more drastic of the two, since it amounted to the slaughter and destruction of calves less than 20 days old, whereas the EMP encouraged producers to slaughter veal calves slightly younger and thereby lighter so increasing the number of calves used to produce a given quantity of veal. The extra calves used would not then enter red meat production.

74. The United Kingdom OTMS has a significant impact on production in the sense that the equivalent of some 300 000 tonnes per year are removed from the food chain. The herd cull schemes would also have had a minor impact on 1997 production (30 000 tonnes).

The calf processing aid scheme (CPAS)

75. Table 7 shows that 70 % of all calves under the scheme are processed in the United Kingdom. This is to be expected given that there is no possibility to export calves to other Member States that have traditionally bought them for fattening. The Regulations do not specify the origin of the calves, merely that they were born in the EU. The rate of aid was ECU 120 per male dairy calf and ECU 150 for other breeds, reduced by ECU 5 in May 1997 and harmonised at ECU 115 for all breeds in December 1997.

76. The Court has commented on the introduction of the scheme in Portugal and the United Kingdom in its 1996 Annual Report. Its main concern was the lack of assurance that all the calves slaughtered were eligible and properly disposed of.

77. In France approximately 40 % of the calves slaughtered are from Member States such as Italy, the Netherlands and Germany that do not apply the scheme.

78. The CPAS was introduced in Ireland in February 1997 almost one year after it had been introduced in Northern Ireland. In Ireland the relatively high prices for calves make the scheme unattractive for all but pure dairy calves for which there is little or no demand. Moreover the system for recording dates of birth is open to abuse enabling farmers to enter poor quality calves for the scheme even though they are over age.

The early marketing premium (EMP)

79. The maximum carcase weights allowed in order to qualify for the EMP were set per Member State on the basis of Eurostat statistics for 1995 (or Commission approved alternatives) less 15 %. The range of resulting weights is wide with significant differences between the principal veal producing Member States — the Netherlands, France and Italy with 33 %, 21 % and 18 % of applications respectively (see Table 8). France, for example, has a weight limit of 108 kg whereas the Netherlands has one of 138 kg.

80. The basic rate of aid was set at ECU 65 per calf slaughtered in December 1996 and January 1997, thereafter it was reduced to ECU 60 and later to ECU 45. In recognition of the fact that carcasses weighing

less than 120 kg are unusual in terms of veal production, differentiated rates of aid were introduced ⁽²⁹⁾.

81. Within the main veal producing Member States there is a heavy concentration of production resulting in most of the aid being paid to a small number of large scale specialised producers.

82. The scheme is relatively easy to administer. The main difficulty relates to the individual weighing of carcasses. There is a degree of flexibility allowed within Member States as to exactly how the carcasses are presented. Few abattoirs are equipped with electronic scales that produce a printout of the actual weight and it is therefore seldom possible to perform an *ex post* check on the actual weights of animals claimed.

83. The audit trail from the claims back to the farm records is in most cases broken due to the fact that there is no clear link between the claims and the individual calves because the ear tag numbers are not recorded. Evidence that the calves meet the residency requirements (initially 60 days in the EU but increased to 90 days with effect from 8 January 1997) is often lacking. In France there was no clear audit trail from the farm register to the claim. In Italy procedures varied between abattoirs and regions and in some cases there is no clear proof of the weights declared given that the record of actual weights is not retained.

Effectiveness of the calf schemes

84. In accordance with Article 1(6) of Regulation (EC) No 2222/96, the Commission made an interim report concerning the application of the two measures (April 1997) ⁽³⁰⁾ and concluded that, as far as the EMP is concerned, for the Netherlands, France, Germany and Austria, 75 % of the payments were in respect of calves that would have been slaughtered at or below the qualifying weight regardless of the premium. In a second Report produced at the behest of the Council (September 1997) ⁽³¹⁾, different assumptions were made and 40 % of all the calves were estimated to have gratuitously benefited from the EMP. Using actual data for 1997 and using the same assumptions, 42 % of calves fall into this

⁽²⁹⁾ ECU 50/65/80 for > 120 kgs/120-110 kgs/110 or less respectively up to June 1997 and 50/57,5/65 for the rest of the year. These rates were further modified under Commission Regulation (EC) No 2502/97.

⁽³⁰⁾ COM(97) 165 final, 18.4.1997.

⁽³¹⁾ COM(97) 461 final, 22.9.1997.

category. The implied cost to the Community budget of this expenditure is ECU 23 million for 1997 and, *ceteris paribus*, the same for 1998.

85. The Commission calculates that the CPAS will result in net savings for the Community budget of some ECU 559 million per annum over the two year period due to lower intervention in-take.

86. In France there is no evidence that the EMP has had an effect on production practices. The average slaughter weight for the first six months of 1997, which was 124,8 kg, is well above the maximum weight for the early marketing scheme, consequently only about 15 % of calves slaughtered qualify for the premium. This is significantly lower than in the other main veal producing Member States (see *Table 8*). In Belgium, however, some producers have reduced the fattening cycle for some breeds of calves in order to increase the number of calves that qualify for the EMP. In Belgium and the Netherlands the average slaughter weight for the first half of 1997 has decreased by some 9 % compared with the average for 1996. The Community average declined by 5 % between 1996 and 1997 (139,1 kg to 131,5 kg). The total number of calves used for veal production increased by 4 % during the same period, after having decreased each year since 1992. Veal production was stable over the period 1995 to 1997 at some 790 000 tonnes.

87. The objective, as stated in the preamble to Council Regulation (EC) No 2222/96, of reducing by 1 million the number of calves used for beef production, has been achieved. However, *Table 3* shows that total red meat production (after adjusting for the effects of the OTMS etc.) has only fallen by 2 % in 1997, most of which can be explained by the production cycle. The full impact of the CPAS will not be felt until 1998/1999.

88. Compared with the CPAS, the EMP is less successful and the results achieved represent poor value for money – 234 000 additional calves used for veal production at a cost of ECU 55,6 million, equivalent to ECU 237 per calf or four times the premium rate. The EMP should therefore either be abandoned or modified so as to ensure that the risk of 'free' calves receiving the premium is minimised.

CONCLUSION

89. The audit has shown that expenditure of ECU 2 149 million on 'animal elimination' and 'market support'

measures, together with the implementation of 'production control' measures, have been accompanied by a partial recovery of beef consumption and they have had a positive impact on producers' income (see paragraph 17).

90. The degree to which the Community budget should bear the financial cost of such emergencies merits further consideration, given the quasi veterinary nature of many of the measures taken in such circumstances (see paragraph 23).

91. The BSE crisis underlines the importance of establishing comprehensive and reliable registers of animals in the Member States. The Court has repeatedly referred to this need, most recently in its 1996 Annual Report in its observations on the management and control of EU premiums in favour of certain bovine producers. In the absence of such registers, the effectiveness of any action relating to animal herds is compromised. The consequence is a lack of traceability, manifesting itself most acutely in the case of the United Kingdom selective cull scheme under which the destination of some 65 000 cattle cannot be ascertained (see paragraph 50).

92. The failure to adequately monitor the feed ban in the United Kingdom meant that a large number of animals which developed BSE (36 000) were born after the ban had been introduced (see paragraph 25). Different approaches were adopted by Member States with regard to the culling of herds in which BSE had arisen and exported British calves (see paragraphs 35, 38 and 45).

93. The controls performed by the clearance of accounts unit focused primarily on the United Kingdom and payments made under Council Regulation (EC) No 1357/96. In addition, numerous visits by the Commission's veterinary officers were made to the Member States (see paragraph 11). Nevertheless there was a lack of rigour and consistency in the implementation of measures within and between Member States, in areas such as the slaughter of British calves exported before the ban, the repurchase of ex-intervention beef, cull schemes, compensation to farmers under Regulation (EC) No 2443/96, and the calf schemes.

94. The inconsistencies in approach undermined the measures taken to compensate farmers equitably. This was due primarily to the fact that the two main measures (Council Regulations (EC) No 1357/96 and (EC) No 2443/96) enabled Member States to make payments

not linked to the traditional beef special and suckler cow premia schemes and therefore outside the scope of the IACS controls (see paragraphs 60 and 63).

95. The production controls introduced are short term by definition and will, in any case, cease to have much of an impact in the event of the export ban, currently affecting Great Britain, being lifted. Similarly, any decision to dismantle the OTMS will effectively increase production (see paragraph 74). Given the limitations on

subsidised exports imposed under the GATT, there may be a build up of stocks which could reach, according to the Commission, 1,5 million tonnes by 2005 ⁽³²⁾.

96. The occurrence of BSE and its aftermath have underlined the urgent need for the EU to design and to adopt a strategy (i. e. Action Plan) to deal, in a coordinated, effective and timely manner, with this kind of crisis.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 7 October 1998.

For the Court of Auditors

Bernhard FRIEDMANN

President

⁽³²⁾ Situation and Outlook — Beef Sector SEC(97) 819.

Table 1

Confirmed Cases of BSE in the EU and Switzerland

	Totals	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
B	1	0	0	0	0	0	0	0	0	0	1
DK	1	0	0	0	0	1	0	0	0	0	0
D	6	0	0	0	0	1	0	3	0	0	2
F	31	0	0	0	5	0	1	4	3	12	6
IRL	265	0	15	14	17	18	16	19	16	73	77
I	2	0	0	0	0	0	0	2	0	0	0
L	1	0	0	0	0	0	0	0	0	0	1
NL	2	0	0	0	0	0	0	0	0	0	2
P	90	0	0	1	1	0	3	12	14	29	30
UK	170 986	2 188	7 166	14 294	25 202	37 057	34 830	24 289	14 473	8 091	3 396
Totals	171 385	2 188	7 181	14 309	25 225	37 077	34 850	24 329	14 506	8 205	3 515
Switz	260	0	0	2	8	15	29	64	68	45	29

Sources:

For the United Kingdom: 45th weekly report of 9 January 1998 by United Kingdom authorities to the Commission.

For EU countries except United Kingdom up to 1996, and for Switzerland up to 30 September 1997: Final Consolidated Report to the Temporary Committee of Enquiry on BSE, by the Commission, p. 83.

For EU countries except United Kingdom for 1997: Commission's Animal Disease Notification System.

Table 2

BSE related expenditure by EAGGF in 1996 and 1997

(Ecu in million)

	Total	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	Relevant Regulations
1. Elimination Measures:																	
Over Thirty Months Slaughter scheme	523,5	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	523,5	716/96
United Kingdom selective Cull	26,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	26,0	1484/96
Repurchase of ex-intervention beef	2,4	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	2,4	1757/96
British calves exported before 20.3.1996	52,1	0,0	0,0	0,0	0,0	0,0	30,9	0,0	0,0	0,0	21,2	0,0	0,0	0,0	0,0	0,0	717/96
Herd culls in France, Portugal and Ireland	12,6	0,0	0,0	0,0	0,0	0,0	1,1	10,6	0,0	0,0	0,0	0,0	0,9	0,0	0,0	0,0	164/97 (F); 1508/96 (P); 1112/97 (IRL)
Slaughter of United Kingdom/Swiss cattle in Germany	3,2	0,0	0,0	3,2	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0	299/97
Sub-total:	619,8	0,0	0,0	3,2	0,0	0,0	32,0	10,6	0,0	0,0	21,2	0,0	0,9	0,0	0,0	551,9	
	100,0 %	0,0 %	0,0 %	0,5 %	0,0 %	0,0 %	5,2 %	1,7 %	0,0 %	0,0 %	3,4 %	0,0 %	0,1 %	0,0 %	0,0 %	89,0 %	
2. Market Support Measures:																	
Producer support	1 309,9	50,2	26,9	213,2	9,2	91,2	335,8	126,9	98,3	3,4	52,6	35,2	19,9	14,9	27,2	205,0	1357/96; 2443/96
Private storage of veal	17,5	0,4	1,0	1,1	0,0	0,0	0,7	0,0	3,1	0,0	11,2	0,0	0,0	0,0	0,0	0,0	830/96
Sub-total:	1 327,4	50,6	27,9	214,3	9,2	91,2	336,5	126,9	101,4	3,4	63,8	35,2	19,9	14,9	27,2	205,0	
	100,0 %	3,8 %	2,1 %	16,1 %	0,7 %	6,9 %	25,4 %	9,6 %	7,6 %	0,3 %	4,8 %	2,7 %	1,5 %	1,1 %	2,0 %	15,4 %	
3. Production Control:																	
Calf Processing Scheme	146,0	0,0	0,0	0,0	0,0	0,0	33,1	1,9	0,0	0,0	0,0	0,0	5,6	0,0	0,0	105,4	2222/96
Early Marketing Premium Scheme	55,6	3,0	0,1	4,9	0,0	0,0	14,3	0,0	9,6	0,0	17,2	4,6	0,1	0,4	1,4	0,0	2222/96
Sub-total:	201,6	3,0	0,1	4,9	0,0	0,0	47,4	1,9	9,6	0,0	17,2	4,6	5,7	0,4	1,4	105,4	
	100,0 %	1,5 %	0,0 %	2,4 %	0,0 %	0,0 %	23,5 %	0,9 %	4,8 %	0,0 %	8,5 %	2,3 %	2,8 %	0,2 %	0,7 %	52,3 %	
Total BSE related expenditure in 1996 and 1997:	2 148,8	53,6	28,0	222,4	9,2	91,2	415,9	139,4	111,0	3,4	102,2	39,8	26,5	15,3	28,6	862,3	
	100,0 %	2,5 %	1,3 %	10,3 %	0,4 %	4,2 %	19,4 %	6,5 %	5,2 %	0,2 %	4,8 %	1,9 %	1,2 %	0,7 %	1,3 %	40,1 %	

(Ecu in million)

	Total	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	Relevant Regulations
Total BSE related expenditure in 1996 and 1997: (excluding elimination measures specific to the UK)	1 596,9	53,6	28,0	222,4	9,2	91,2	415,9	139,4	111,0	3,4	102,2	39,8	26,5	15,3	28,6	310,4	
	100,0 %	3,4 %	1,8 %	13,9 %	0,6 %	5,7 %	26,0 %	8,7 %	7,0 %	0,2 %	6,4 %	2,5 %	1,7 %	1,0 %	1,8 %	19,4 %	
Size of cattle herd (in '000's) at 1.1.1996	84 450	3 147	2 094	15 890	550	5 432	20 662	6 531	7 128	204	4 558	2 323	1 317	1 179	1 762	11 673	
	100,0 %	3,7 %	2,5 %	18,8 %	0,7 %	6,4 %	24,5 %	7,7 %	8,4 %	0,2 %	5,4 %	2,8 %	1,6 %	1,4 %	2,1 %	13,8 %	
Total expenditure on beef and veal in 1996 and 1997 (including BSE related expenditure)	13 362,6	434,6	278,3	2 006,8	98,3	899,1	2 997,1	2 269,5	599,5	15,6	513,6	323,9	193,3	99,7	167,4	2 465,9	
BSE expenditure as percentage of total expenditure on beef and veal	16,1 %	12,3 %	10,1 %	11,1 %	9,4 %	10,1 %	13,9 %	6,1 %	18,5 %	21,8 %	19,9 %	12,3 %	13,7 %	15,3 %	17,1 %	35,0 %	

Sources: Evolution of EAGGF-Guarantee payments for 1996 and 1997.
Agricultural Situation Report 1996.

Note: Export refunds and public storage costs are excluded.

Table 3

Beef and Veal Consumption Patterns (in 1 000 tonnes carcase weight equivalent)

	European Community (EC-12)				European Union (EC-15)				
	1991	1992	1993	1994	1995	1996	1997	1998(e)	1999 (e)
Production (gross)	8 705	8 378	7 824	7 445	8 115	8 057	7 911	7 643	7 911
Production net (adult)	7 881	7 557	6 932	6 565	7 168	7 155			
Production net (veal)	842	839	812	806	796	795			
Production net (total bovines)	8 723	8 396	7 744	7 371	7 964	7 950	7 871	7 603	7 466
+ meat imports	447	480	419	456	377	364	383	400	400
- meat exports	1 244	1 239	1 085	1 073	1 006	965	942	900	836
Change in stocks	373	155	- 448	- 556	- 145	416	195	- 139	- 253
Stocks at end of year	1 011	1 166	718	163	18	434	629	490	237
Consumption	7 553	7 482	7 526	7 310	7 480	6 933	7 117	7 242	7 283
Self sufficiency (%)	115 %	112 %	104 %	102 %	109 %	117 %	111 %	106 %	103 %
Animal numbers (1 000)	84 675	81 435	79 320	78 650	84 561	84 875	84 508	83 080	82 500
Consumption <i>per capita</i>	21,8	21,6	21,6	20,9	20,1	18,6	19,1	19,4	19,5
Intervention storage:									
— purchases to store	1 027	890	165	0	0	415	240	50	0
— sales from store	766	684	778	393	73	9	61	189	253

Notes:

Production (gross) = production of meat from animals raised in the EU.

Production (net) = production of meat in the EU, after taking into account trade in live animals.

Consumption = production (net) + meat imports - meat exports - change in stocks.

Animal numbers are at 1 January each year.

Consumption figures are kg per person per year.

BSE measures are estimated to have reduced production by 320 000 tonnes in 1996 and 237 000 tonnes in 1997.

Source: DG V D2 document ref. PDW/LF/If/BILAN/98001.xls; Eurostat, Animal Production Statistics.

Table 4

Compensation paid and animals killed under cull schemes

	Direct compensation				Other compensation National	Total Compensation	Total % EU	Animals culled
	EU	National	Total	% EU				
Germany	688	512	1 200	57	0	1 200	57	5 417
France	970	410	1 380	70	680	2 060	47	1 390
Ireland	660	280	940	70	0	940	70	18 080
Portugal	335	145	480	70	780	1 260	27	3 566
United Kingdom — SCS	790	1 260	2 050	39	0	2 050	39	56 934
United Kingdom — OTMS	370	310	680	54	0	680	54	1 983 636

Notes:

Compensation figures are average amounts, paid in ECU per animal.

'Other' losses cover indirect losses in France, and lost productive value in Portugal. These losses are not EU funded.

Exchange rates used:

DEM/ECU: 1,95

FRF/ECU: 6,5

PTE/ECU: 197

IEP and GBP/ECU: 0,75

'Animals culled' are up to 31.12.1997.

Source: information provided by Member States.

Table 5
Compensation paid for suspected and confirmed BSE cases

Member State	Time period	Confirmed cases (ECU)	Suspect cases (ECU)	Basis for compensation of confirmed BSE cases	Basis for compensation of unconfirmed cases
Belgium		2 500	2 500	full value subject to maximum of BEF 100 000	
Germany		3 075	3 075	full value subject to maximum of DEM 6 000	
France	— August 1991	310	310	75 % of lost value (maximum FRF 2 000)	FRF 2 000 for each suspect case
	8/1991 — 1993	310 or 620	310	(a) FRF 2 000 if slaughtered within a year of serving the restriction order (b) FRF 4 000 if slaughtered within 3 months of serving the restriction order	FRF 2 000 for each suspect case
	1994 —	see note	310	Market value (no upper limit). Producers may also be compensated for indirect costs	FRF 2 000 for each suspect case
Ireland	April 1990 —	700	700	Market value, or the average market value two months before, if less	Market value
Italy		see note	see note	No compensation for imported animals which were infected in the country of origin	
Portugal		1 200 or 1 700	1 200 or 1 700	Market value	Market value
United Kingdom	8.8.1988 — 13.2.1990	500	1 000	50 % of the lower of market value and 125 % of average market price two months before	The lower of market value and 125 % of average market price two months before
	14.2.1990 — 31.3.1994	1 070	1 340	Market value, or average market price two months before, if less	Market value, or 125 % average market price two months before, if less
	1.4.1994 — 22.5.1996	850	1 050	Market value, or indicative market price, if less	Market value, or 125 % indicative market price, if less
	23.5.1996 — 23.1.1997	740	925	Market value, or indicative market price, if less	Market value, or 125 % indicative market price, if less.
	24.1.1997 —	880	1 100	Market value, or indicative market price, if less	Market value, or 125 % indicative market price, if less

Notes:

Amounts are translated from national currencies to ecus.
This compensation is not EU funded.

Source: information provided by Member States.

Table 6

Payments under Regulation (EC) No 1357/96

Member State	Male bovines (ECU/head)	Suckler cows (ECU/head)	National aid (ECU in million)
Belgium	38,7	81,6	28,5
Denmark	27,2	13,6	0
Germany	7,5	7,5	0
Greece	23	27	0
Spain	30,2	33,9	0
France	46	27	74,3
Ireland	23	27	0
Italy	0	16	11,2
Luxembourg	25,3	30,3	1,9
Netherlands	34,7	25,3	0,5
Austria	39,8	39,8	0
Portugal	34,2	31,1	0
Finland	23	27	0
Sweden	34,4	38,4	0
United Kingdom	23	27	0
TOTAL			116,4

Source: DG VI document reference VI/7915/96.

Table 7

Animals processed under the Calf Processing Aid scheme to 31.12.1997

Member State	Start date	Dairy calves	Non-dairy calves	Total	Percentage
France	October 1996	287 116	66 970	354 086	25 %
Ireland	February 1997	18 324	953	19 277	1 %
Portugal	May 1996	61 813	812	62 625	4 %
United Kingdom	April 1996	935 788	72 541	1 008 329	70 %
Totals		1 303 041	141 276	1 444 317	
Percentage		90 %	10 %		

Source: DG VI D.2 document ref. RL/av D(96) (notes/056).

Table 8

Animals processed under the Early Marketing Scheme in 1997

Member States	Animals	% of EU total	(%) Calf slaughters	Maximum weight (kg)
Belgium	132 497	8 %	39 %	136
Germany	146 357	9 %	28 %	112
France	331 800	21 %	15 %	108
Italy	278 773	18 %	22 %	117
Netherlands	526 097	33 %	35 %	138
Sub-total	1 415 524	90 %	24 %	
Total EU	1 579 206	100 %		

Note:

The scheme started in late 1996; an additional 37 194 calves were processed by 31.12.1996.

Source: DG VI D.2 document ref. VI/2847/97(37).

COMMISSION REPLIES

EXECUTIVE SUMMARY

Elimination measures

The Commission does not agree with the Court about the 'quasi-veterinary' nature of the measures. Both the nature of these measures and the percentage of the Community contribution to them were laid down by the Council at its extraordinary meeting early in April 1996. The rate of part-finance is normal for market measures (70 %, the same as that used on many occasions in the pigmeat sector).

- (a) Corrections for the 'over 30 months' scheme (OTMS) are envisaged under the clearance of accounts procedure as a result of the weaknesses detected by the Commission during the seven missions conducted to evaluate the implementation and application of this scheme.
- (b) The Commission considers that, until a full assessment of the measure is available, it cannot be proven that failure to apply the measure in Belgium has made it less effective in terms of restoring the confidence of consumers in France and the Netherlands (see reply to point 34).
- (c) The short period for payments allowed by the rules was fixed deliberately in view of those at whom the measure was aimed and the need to send a clear message to consumers in order to increase the effectiveness of the measure while also avoiding fraud (see reply to point 37).
- (d) It should be noted that most of the 65 000 untraceable cattle in the United Kingdom originate in the 1989/90 'voluntary' cohort. When this cohort was included in the selective cull, it was recognised that many of the animals would be untraceable because the necessary (national or Community) legislation on tracing did not exist at that time. It should, however, be noted that no untraced animals from the selective cull could legally enter the human or animal food chains because they would all be over 30 months old, and would be destroyed under the OTMS.

Market measures

The Commission considers that the Council deliberately allowed greater flexibility to take account of the different situations across the Member States, producers and consumers. This meant that different amounts were paid to different beneficiaries. It should also be noted that milk producers and those raising calves also suffered losses as a result of the BSE crisis. The important point in this operation was that each Member State should adopt the most effective solutions to deal with the difficulties it was facing, without distorting competition (see replies to points 58 to 71).

The Commission would recall that the seriousness of the crisis, probably the greatest ever known in the beef/veal sector, required urgent measures and that the recovery of payments wrongly made was absolutely essential if compensation was to be granted fairly (see replies to points 66 and 67).

The Commission considers that the two measures concerning young calves should be seen as part of a single package since politically neither measure could be adopted without the other. Their effectiveness should therefore also be judged jointly (see replies to points 84 to 88).

The Commission is closely following the recovery of amounts wrongly paid through the clearance procedure.

Conclusion

The nature of the measures was clearly specified by the Council when they were introduced in April 1996. The percentage part-financed is therefore normal for market measures.

There was no legal basis for the Commission to monitor the UK meat and bone-meal ban in 1988/89, which was the most sensitive period for any spread of BSE outside the UK. In fact, the Commission warned of the possible risk in the Standing Veterinary Committee and advised other Member States, in the absence of a Community legal basis, to take their own measures.

The Commission must emphasise that if the Member States have not implemented the BSE measures in accordance with the Regulations, consequences will be drawn during the clearance of accounts. As was pointed out in the reply to point 4.75 of the Court's annual report for the 1996 financial year, and has been stressed in the reply to previous points of this report, the Commission has undertaken numerous missions to a majority of Member States to evaluate the implementation of Regulations (EC) Nos 1357/96 and 2443/96 (supplementary payments to bovine producers), the calf processing aid scheme and the early-marketing premium.

The desire to enable the Member States to exercise a degree of subsidiarity in no way undermined the checks carried out under the IACS. Rather it enabled the Member States to use the most effective means of achieving the goals of this aid scheme. The Commission considers that, although checks under the IACS were not carried out for the measures under Regulations (EC) No 1357/96 and (EC) No 2443/96 by all Member States, it has been possible to check the measures by other means, for example where payments were made on the basis of animal sickness insurance (Germany) or accompanying measures claims (Austria).

The Community already has the legal basis to deal with outbreaks of animal diseases, including those which affect humans. In the case of transmissible spongiform encephalopathies, a specific regulation of the Council and Parliament is being prepared which will replace most of the current safeguard measures. Furthermore, in the priorities for the 1999 preliminary draft budget, the Commission announced that it would launch a debate on how to make the various parties involved in combating outbreaks of disease, the producers, the Member States and the Union, more responsible. Consideration has not yet begun and it is premature to state that an insurance fund should be set up.

GENERAL STATEMENT

1. All in all, the Commission considers that rapid and efficient action was taken to ensure a proper Community response to the unprecedented crisis following the UK Government's announcement on 20 March 1996. The Community beef market was pushed to the verge of collapse almost overnight as consumer confidence plummeted.

The Council's aim was to act quickly to protect human and animal health and to support beef producers. Within a very short time the Commission and the Council introduced measures intended to fulfil this aim.

The measures varied in objective and form to ensure that as many aspects of the crisis as possible were dealt with in a quick and efficient way. For example, the 'Over Thirty Months Scheme' (OTMS) served to protect human health, restore consumer confidence and support beef

producers, while the additional direct payments to beef producers (Regulations (EC) No 1357/96 and (EC) No 2443/96) ensured that payments were made to producers on the basis of objective criteria defined by each Member State to take account of their specific situation. These allowed for an element of subsidiarity which is often called for but rarely possible within the framework of the common agricultural policy.

In addition to EAGGF funding, measures such as improvements in beef labelling and animal identification were introduced to restore consumer confidence and protect human and animal health.

Furthermore, the Commission acted on recommendations put forward by Parliament as regards both the organisation of the Commission services and improvements in Regulations, as recognised by the European Parliament's Temporary Committee on the Follow-up of Recommendations on BSE.

With respect to the efficiency of the measures introduced to restore the markets, the Commission agrees with the Court that it is too early to evaluate the full impact of measures such as the calf processing aid scheme and the early marketing premium scheme, but there can be no doubt that beef/veal production has been reduced as a result of these schemes and of other BSE measures, in particular the OTMS in the UK.

2. The Commission has closely monitored the application of the BSE measures from the start.

The Clearance of Accounts Unit has carried out a number of missions to the main Member States concerned to evaluate the control procedures necessary to ensure correct payment of BSE subsidies and proper destruction of material which must not enter the human food chain. These missions have resulted in a number of recommendations for improvements in the control procedures. It is important to stress that their objective has been twofold, namely to make sure that Member States comply with Community rules and to refuse Community financing if this is not the case, but also to ensure that risk material is kept separate from all other material and is properly controlled and disposed of.

Other Commission services have also carried out a number of missions to monitor Member States' actions to eradicate BSE and to respect the UK export ban. The veterinary services and UCLAF have been involved in this considerable effort (see *Annex* listing the missions carried out by the Commission services).

INTRODUCTION

11. In addition to the visits mentioned by the Court, a visit was also carried out in the Netherlands, the most important Member State in terms of expenditure under the early marketing premium (EMP), at an early stage of the implementation of the scheme, to ensure that proper control procedures were being applied. The calf processing aid scheme (CPAS) has been audited in both the UK and France, representing more than 93 % of all animals slaughtered under the scheme. As regards Regulation (EC) No 2443/96, some Member States were visited even before payment had taken place and so audit of this expenditure can only be concluded at a later stage.

The Commission therefore considers the Court's remark about this measure premature.

The Commission has carried out a number of missions in relation to the BSE measures and considers its coverage to be adequate. In planning the audit of the BSE measures, the Commission's risk analysis took account of the inquiries planned by European Court of Auditors and so decided to rely on the Court's audit of Regulation (EC) No 717/96 (destruction of calves imported from the United Kingdom) and the herd cull schemes in Member States other than the UK in order to avoid duplicate

work, particularly since these measures only applied to a limited number of animals and so had a limited time span. Instead the Commission concentrated its time and effort on measures involving greater expenditure.

With a view to coordinating missions carried out by the Commission and the Court of Auditors, the Commission may decide not to undertake an inquiry into measures which will be covered by a Court inquiry as in the case of the British calf scheme and the herd cull schemes. In such cases, the Commission draws the appropriate financial conclusions from the Court's findings, and so there is no need to carry out its own missions.

European Parliament's report

12-15. The Commission has replied in full to the criticisms referring to the Commission contained in the reports of both the Temporary Committee of Inquiry and the Follow-up Committee. The latest communication from the Commission to the Parliament setting out the actions undertaken in response to the Parliamentary reports and further planned measures was submitted on 6 May 1998 (COM(1998) 282 final).

Since the publication of the Report of the Temporary Committee of Inquiry in February 1997, there has been close and constructive cooperation between the European Parliament and the Commission. This has put consumer health and safety at the centre of a major joint political effort. The foundations for restored consumer confidence in food safety have been laid through a number of major achievements since February 1997.

Several of these achievements have a general bearing on food safety and consumer protection, in particular the adoption of new approaches in the fields of scientific advice, risk analysis, animal identification and control and inspection, based on the principles of excellence, independence and transparency. There have also been some important developments focusing specifically on the fight against BSE. Financial decisions have been taken to support BSE research. Legislation has been adopted to prevent the spread of BSE and to protect public health, in particular to strengthen the rules on BSE surveillance and regulate the trade in and use of meat and bone meal. Furthermore, the Commission has taken action to ensure compliance with Community legislation in the field of BSE. A high number of veterinary inspections have been carried out. Infringement procedures have been opened against offending Member States as a result of unsatisfactory implementation of Community rules.

The Commission considers that consumer confidence can only be restored if the European Parliament, the Council and the Commission work closely together with Member States on the basis of a commitment to protect public health.

PRINCIPAL FEATURES OF THE MARKET

17. As a result of the measures taken by the Commission, above all in the veterinary sector and with respect to promotion measures and labelling, beef consumption is forecast to recover fully, perhaps even making up the consumption lost as a result of the BSE crisis by 2001 ⁽¹⁾.

ELIMINATION MEASURES

Introduction

The Commission does not agree with the Court about the 'quasi-veterinary' nature of the measures. Both the nature of these measures and the percentage of the Community contribution to them were laid down by the Council at its extraordinary meeting early in April 1996. The rate of part-finance is normal for market measures (70 %, the same as that used on many occasions in the pigmeat sector).

The UK 'Over Thirty Months Scheme' (OTMS)

26. When this scheme was first introduced, for the sake of simplicity a fixed amount of compensation (per animal) was set on the basis of the market price of a cow, which covered most culled cattle over 30 months and for which the price was well below that of male bovines and heifers. Later, when the Commission noted a significant change in market prices, the fixed amount per animal was reduced (in two stages) and ultimately separate prices were set for male bovines and heifers at a level high enough to ensure the scheme's effectiveness.

27-32. As stated by the Court, the Commission has detected a number of weaknesses in the UK application of the 'Over thirty months scheme', including the deficiencies in the audit trail, in the control over scheme material after slaughter, the delay in cross checking within the scheme and with other schemes, and the delay in destruction of material.

⁽¹⁾ Commission working paper of April 1997 from the Directorate-General for Agriculture: 'CAP 2000, situation and outlook, beef sector', pp. 25 to 26.

These problems, along with a number of other Commission findings, are being followed up in the clearance of accounts procedures. Corrections are envisaged for financial years 1996 and 1997, and a reserve on the 1998 expenditure has been notified to the UK authorities.

British calves exported before 20 March 1996

34. The findings of the Court and the Commission and the Member States' replies are being followed up within the clearance of accounts procedure.

35. The destruction of calves imported from the United Kingdom was a market measure designed to restore consumer confidence, and not a health measure. Clearly the individual Member States are responsible for implementing such a measure as they are best placed to judge consumer reactions. The Commission considers that, until a full assessment of the measure is available, it cannot be proven that there has been a reduction in its effectiveness in terms of restoring consumer confidence.

Repurchase of ex-intervention beef

37. It must be borne in mind that the primary objective of this measure was to destroy old beef stocks, as set out in the recitals to Commission Regulation (EC) No 1757/96, in a context of market crisis which required immediate measures to restore consumer confidence. The short period for payments allowed by the rules was therefore fixed deliberately in view of those at whom the measure was aimed and the need to send a clear message to consumers in order to increase the effectiveness of the measure while also avoiding fraud.

Cull schemes

Herd culls

40. The Member States, with the exception of Ireland, had asked to be given the possibility of supplementing the Community contribution with national aid (over and above the 30 % normally charged to the national budget) where necessary (i.e. where the Member State considered that the overall amount of aid was not enough to guarantee the effectiveness of the measure). This produces differences in the share of compensation paid to the Member States from the Community budget compared with the total amount per animal, which clearly responds to the flexibility desired by and granted to the Member States.

Germany

43-44. As stated in the first recital of Commission Regulation (EC) No 299/97, animals born in the UK had been exported to other Member States prior to the introduction of the export ban. The possibility that those animals, as well as animals imported from Switzerland, or their descendants, might enter the human or animal food chains had led to a lack of consumer confidence in beef and a disturbance of the market in Germany. As a result of the subsequent export ban this produced a general decline in consumer confidence in all beef, no matter where it came from, thus necessitating these exceptional market support measures.

Article 23 of Regulation (EEC) No 805/68 refers to situations in which restrictions on free circulation may result from the application of measures for combating the spread of diseases. This was the risk in Germany. The compensation payments for the destruction of the animals concerned had the desired effect and helped avoid situations in which more extreme measures would have been necessitated.

The UK selective cull

50. It should be noted that most of the 65 000 untraceable cattle in the United Kingdom originate in the 1989/90 'voluntary' cohort. When this cohort was included in the selective cull, it was recognised that many of the animals would be untraceable because the necessary (national or Community) legislation on tracing did not exist at that time. It should, however, be noted that no untraced animals from the selective cull could legally enter the human or animal food chains because they would all be over 30 months old, and would be destroyed under the OTMS.

51. The two schemes have quite different purposes. The OTMS is a general scheme, intended to assure consumers that animals of a certain age that might potentially develop BSE have been destroyed and excluded from the human food chain. The SCS is a specific measure applying to animals which, from 1989, have been reared together with animals infected with BSE; animals targeted by the selective cull also pose a much greater health risk and therefore have to be handled differently. Unlike a large proportion of animals submitted under the OTMS, animals slaughtered under the SCS are as a rule fully

productive, which accounts for their higher market value and the need to pay a higher premium to producers.

52. The Commission contributes 70 % of the market value only of animals slaughtered under the SCS, with the UK paying the difference between this amount and the cost of replacing the animal. To ensure an accurate estimate, the market and replacement value are determined by professional independent valuers. The Commission is monitoring the established market values within the framework of the clearance of accounts procedure

Compensation for BSE cases

53. Under Community law all bovine animals which, at *ante-mortem* examination, show clinical suspicion of BSE must be retained and slaughtered separately and their brains examined for BSE. If BSE is confirmed, the carcase and offal must be destroyed (Article 2 of Commission Decision 94/474/EC, OJ L 194, 29.7.1994, p.96). In the Belgian and Luxembourg cases referred to there was no clinical suspicion of BSE, but all suspect rabies cases are examined for BSE as part of a routine surveillance programme.

55. This paragraph presents as fact a number of allegations concerning the supposed origin of some BSE cases in Ireland. These allegations have not been substantiated and are disputed by the Netherlands and Denmark. In addition, this point refers to estimates of 'lost' BSE cases exported from the UK but never reported in the importing Member States. When these estimates were published in an article in the *Veterinary Record* in 1997, they were disputed by the Member States concerned (Germany, Ireland and Denmark). In the face of objections from those Member States, the authors replied (*Veterinary Record*, 13.9.1997, p. 287) that their article was not meant to be inflammatory or critical. It was intended to draw the attention of the other Member States to the risk of importing infective material, which may then be re-cycled, rather than to make claims about the number of clinical cases which have or should have occurred in their countries. They accepted that the statistics on which they based their estimates contained a significant margin of error.

MARKET MEASURES

Disparity of aid rates

58-61. The Commission considers that the Council deliberately allowed greater flexibility to take account of

the different situations across the Member States, producers and consumers. This meant that the most effective solution could only come from the Member States themselves, which resulted in different amounts being paid to different beneficiaries. It should also be noted that milk producers and those raising calves also suffered losses as a result of the BSE crisis. The important point in this operation was that each Member State should adopt the most effective solutions to deal with the difficulties it was facing, without distorting competition.

58. There is nothing to suggest that this variation distorted competition.

59. The Commission considers that the examples quoted by the Court comply with the provisions of Council Regulation (EC) No 1357/96.

60. The Commission does not consider that there is some evidence to suggest that certain sectors may have been overcompensated. The Court's report does not contain any evidence to support its suggestion.

Controls

Council Regulation (EC) No 820/97 is one of the many Commission initiatives taken after the outbreak of the BSE crisis to improve veterinary controls and thereby protect public health. It aims to improve traceability, which will also improve control over animal premium schemes financed under the EAGGF Guarantee Section.

Recoveries

66. The Commission has included this measure, and particularly the requirement to recover payments, in all missions conducted as part of its inquiry into bovine premiums. Non-recovered amounts are being followed up within the clearance of accounts procedure.

67. The different procedures are laid down in Regulation (EC) No 1357/96. Given that the only information available on payment of premiums was for 1995, and that the crisis developed in March 1996, the fairest way of compensating producers appeared to be to set off payments against producers' entitlement to premiums in respect of 1996. The Regulation finally adopted by the Council allowed flexibility on the part of Member States with access to other sources of information that allowed them to realise the aims of the Regulation. The result of a subsidiarity-based approach is that the solutions proposed for one and the same problem may vary from one place to the next.

Direct support

68-71. There are good reasons for the differences between the two Regulations providing for compensation for income loss. The first aid package (Regulation (EC) No 1357/96) had demonstrated the difficulties in evaluating individual income loss, and the Council therefore gave the second aid package wider scope than the first by allowing Member States to make additional payments to support producers' incomes and/or the beef and veal sector in their territory, provided that these payments did not cause distortion of competition.

There is nothing to suggest that the variety of measures taken by the Member States has caused distortion of competition.

Production control

The calf processing aid scheme (CPAS)

76. The Commission has made similar findings in the UK in relation to this scheme, as well as a number of other discoveries. The UK authorities have undertaken to improve control over the disposal of calves. Corrections for previous shortcomings are envisaged within the clearance of accounts procedure.

78. There is no real production of veal calves in Ireland and so it made sense to opt for the processing premium. The two schemes (processing premium and early marketing premium) are part of one package and Member States were required to implement at least one of the two.

The findings of the Court and of the Commission are being followed up within the clearance of accounts procedure.

The early marketing premium (EMP)

81. The Court's finding does not cast doubt on the scheme's effectiveness.

82-83. The Commission has carried out a number of on-the-spot checks in relation to the early-marketing premium (EMP) in France, Germany and the Netherlands (see paragraph 11 and Commission reply). The findings from these checks and the Court's findings in the Member States are being followed up within the clearance of accounts procedure.

Effectiveness of the calf schemes

84. In view of the structure of calf production, it was clear that the introduction of this premium would involve

the risk of opportunism (whereby a number of animals might benefit gratuitously from the EMP without any reduction in weight), which the Council and the Commission regarded as inevitable if they were to attain the desired goal. However, this effect does not cast doubt on the effectiveness of the package of measures that has been introduced. The Commission takes account of this in its reports to the Council, reflecting the objectiveness of the work carried out.

86. A look at forecast production shows that the impact is even greater than that expected by the Court (see *Tables 1 & 2* annexed). These tables, based on Eurostat figures, show a 5,8 % reduction in average slaughter weight (8,2 kg less per animal) and a 7 % increase in the number of animals excluded from red meat production (372 330 head) in 1997 (application of the two schemes).

87. When it was decided to introduce these two schemes (processing premium and early-marketing premium), it was clear that each one was going to operate differently with different time-scales.

84-88. The two measures are part of a single package since politically neither measure could be adopted without the other. Their effectiveness should therefore also be judged jointly, taking into account the fact that application of one measure is essential to apply the other, and vice versa.

CONCLUSION

89. In view of the above the Commission considers that the market measures have been extremely effective.

90. The nature of the measures was clearly specified by the Council when they were introduced in April 1996 to. The percentage part-financed is therefore normal for market measures.

91. The Commission is striving to introduce an optimum system of identification and registration of bovine animals. In May 1992 the Commission submitted to the Council a proposal for a Regulation covering the need to trace animals for veterinary purposes and for the administration and control of Community aid schemes. The Council subsequently adopted Directive 92/102/EEC. In October 1996, having found that this Directive was not being implemented satisfactorily, the Commission submitted a new draft Regulation which resulted in the

Council adopting Regulation (EC) No 820/97. The Commission is very pleased with the Court's encouragement to continue with these efforts.

It should be noted that most of the 65 000 untraceable cattle in the United Kingdom originate in the 1989/90 'voluntary' cohort. When this cohort was included in the selective cull, it was recognised that many of the animals would be untraceable because the necessary (national or Community) legislation on tracing did not exist at that time. It should, however, be noted that no untraced animals from the selective cull could legally enter the human or animal food chains because they would all be over 30 months old, and would be destroyed under the OTMS.

92. There was no legal basis for the Commission to monitor the UK MBM ban in 1988/1989, which was the most sensitive period for any spread of BSE outside the UK. In fact, the Commission warned of the possible risk in the Standing Veterinary Committee and advised other Member States, in the absence of a Community legal basis, to take their own measures.

93. The Commission must point out that if Member States have not implemented the BSE measures in accordance with the Regulations, action will be taken within the framework of the clearance of accounts.

As pointed out in the reply to point 4.75 of the Court's annual report for the 1996 financial year, and emphasised in the reply to previous points of this report, the Commission has carried out a number of missions to a majority of Member States to evaluate the implementation of Regulations (EC) No 1357/96 and

(EC) No 2443/96 (supplementary payments to bovine producers), the calf-processing aid scheme, and the early marketing premium, in addition to the controls mentioned by the Court.

94. The desire to enable the Member States to exercise a degree of subsidiarity in no way undermined the checks carried out under the IACS. Rather it enabled the Member States to use the most effective means of achieving the goals of this aid scheme (see reply to points 58 to 61).

The Commission considers that, although checks under the IACS were not carried out for the measures under Regulations (EC) No 1357/96 and (EC) No 2443/96 by all Member States, it has been possible to check the measures by other means, for example where payments were made on the basis of animal sickness insurance (Germany) or accompanying measures claims (Austria).

95. The measures taken with respect to BSE and those designed to counter the structural imbalance are examined in Agenda 2000 and form the basis of the proposed reform in the sector.

96. The Community already has the legal basis to deal with outbreaks of animal diseases, including those which affect humans. In the case of transmissible spongiform encephalopathies, a specific Regulation of the Council and Parliament is being prepared which will replace most of the current safeguard measures.

Furthermore, in the priorities for the 1999 preliminary draft budget, the Commission announced that it would launch a debate on how to make the various parties involved in combating outbreaks of disease, the producers, the Member States and the Union, more responsible. Consideration has not yet begun and it is premature to state that an insurance fund should be set up.

ANNEX

LIST OF COMMISSION MISSIONS CARRIED OUT IN RELATION TO BSE

1. JOINT MISSIONS IN RELATION TO THE 'OVER THIRTY MONTHS SCHEME' (OTMS) IN THE UK

Date	Participating services
May 1996	(OICVP) DG V and DG VI including clearance of accounts
January 1997	(OICVP) and DG VI including clearance of accounts
February 1998	FVO, DG VI clearance of accounts and DG XX

2. CLEARANCE OF ACCOUNTS MISSIONS, DG VI.A.I.3

2.1. BSE measures specific to the UK:

'Over Thirty Months', selective cull and intervention buy-back schemes

Date	Member State	Other participating services
July 1996	United Kingdom	European Court of Auditors
April 1997	United Kingdom	
November 1997	United Kingdom	UCLAF
May 1998	United Kingdom	

See also joint missions with DG XXIV

2.2. Bovine premiums inquiry with BSE measures incorporated:

Regulation (EC) No 1357/96, (EC) No 2443/96, calf-processing aid scheme and/or early-marketing premium

Date	Member State
September 1997	Germany
January 1998	Germany
July 1998	Germany
May 1997	Greece
June 1997	France
September 1997	France
December 1997	Ireland
July 1998	Italy
March 1997	Austria
April 1997	Finland
June 1997	Sweden
July 1997	United Kingdom
October 1997	United Kingdom

2.3. Other missions relating to BSE measures

Date	Member State	Measures
April 1997	Netherlands	Preventive audit early-marketing premium

See also July 1996 mission to Portugal with OICVP.

3. MISSIONS CARRIED OUT BY THE OICVP (VETERINARY AND PHYTOSANITARY OFFICE) FROM APRIL 1996 TO MARCH 1997 AND THE FOOD AND VETERINARY OFFICE, DG XXIV FROM APRIL 1997 TO JULY 1998

3.1. United Kingdom

Date	Member State	Main topic	Other participating services
April 1996	United Kingdom	BSE general	DG III, DG VI
July 1996	United Kingdom	Decision 96/239/EC	DG III
October 1996	United Kingdom	Decision 96/239/EC	DG III
March 1997	United Kingdom	Selective cull programme	
April 1997	United Kingdom	Gelatine	
June 1997	United Kingdom	Preconditions of Florence Agreement	
June 1997	United Kingdom	Decision 96/239/EC	
October 1997	United Kingdom	Decision 96/239/EC Animal waste	
November 1997	United Kingdom	ECHS	
April 1998	United Kingdom	ECHS	
June 1998	United Kingdom	Decision 98/256/EC	

3.2. Other Member States

Date	Member State	Main topic	Other participating services
July 1996	Portugal	Eradication of BSE	DG VI including Clearance of Accounts
October 1996	Belgium	BSE surveillance	
October 1996	Luxembourg	BSE surveillance	
October 1996	Austria	BSE surveillance	
October 1996	Finland	BSE surveillance	
October 1996	Spain	BSE surveillance	
November 1996	France	BSE surveillance	
November 1996	Italy	BSE surveillance	
November 1996	Germany	BSE surveillance	
November 1996	Greece	BSE surveillance	
November 1996	Sweden	BSE surveillance	
December 1996	Ireland	BSE surveillance	

Date	Member State	Main topic	Other participating services
December 1996	Denmark	BSE surveillance	
December 1996	The Netherlands	BSE surveillance	
March 1997	Ireland	BSE surveillance	
March 1997	France	BSE surveillance	
June 1997	Portugal	Animal waste, BSE surveillance	
July 1997	Denmark	Animal waste	
August 1997	Finland	Animal waste	
September 1997	The Netherlands	Animal waste, surveillance	
September 1997	Austria	Animal waste	
September 1997	Belgium	Animal waste	
September 1997	Ireland	Animal waste	
September 1997	Germany	Directive 89/662/EEC	
October 1997	Spain	Animal waste, surveillance	
October 1997	Italy	Animal waste, surveillance	
October 1997	Greece	Animal waste, surveillance	
November 1997	Germany	Animal waste, surveillance	
November 1997	Sweden	Animal waste, surveillance	
December 1997	France	Animal waste	
January 1998	Ireland	Animal waste	
February 1998	Belgium	Animal waste	
February 1998	Denmark	Animal waste	
April 1998	Finland	Animal waste	
May 1998	Portugal	Animal waste, surveillance	
May 1998	The Netherlands	Animal waste	
July 1998	France	Animal waste	

3.3. Switzerland

Date	Country	Main topic
April 1996	Switzerland	Animal waste, surveillance
June 1997	Switzerland	Animal waste, surveillance

4. MISSIONS CONCERNING ILLEGAL TRAFFIC IN UK BEEF CARRIED OUT BY UCLAF AND DG XXIV FVO

Date	Member State	Participating services
May 1997	The Netherlands	UCLAF
July 1997	Belgium	UCLAF, FVO
July 1997	United Kingdom	UCLAF, FVO
July 1997	France	UCLAF, FVO
July 1997	Ireland	UCLAF, FVO
July 1997	United Kingdom	UCLAF, FVO, DG VI Clearance of Accounts
July 1997	United Kingdom	UCLAF, FVO
July 1997	Germany	FVO
August 1997	Germany	UCLAF
September 1997	Spain	FVO
September 1997	United Kingdom	UCLAF, FVO
September 1997	Belgium	UCLAF, FVO
September 1997	Ireland	FVO
December 1997	France	UCLAF, FVO
February 1998	The Netherlands	FVO
March 1998	Ireland	FVO
May 1998	The Netherlands	UCLAF, FVO

Figure 1

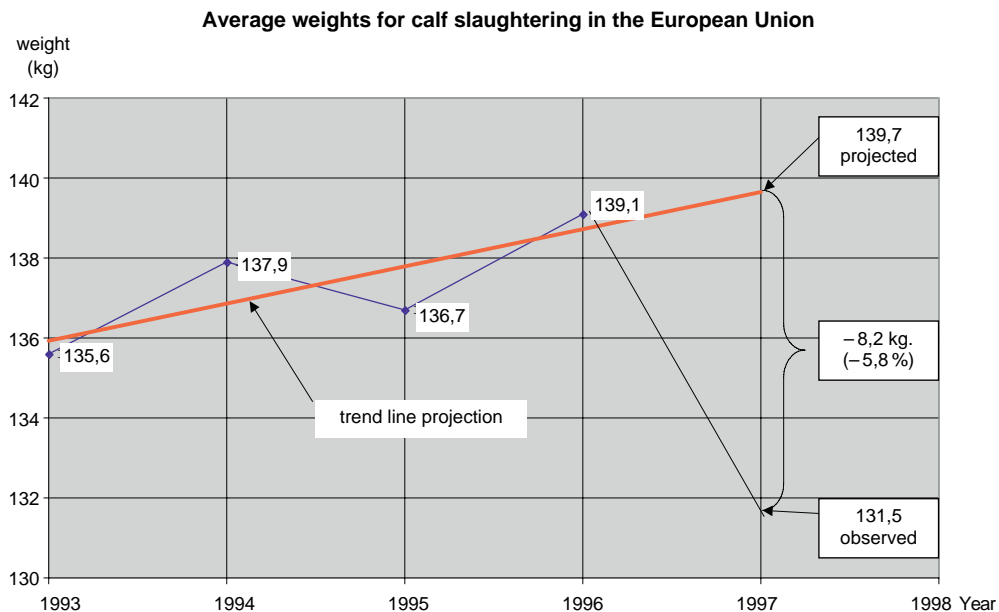


Figure 2

