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REPORT CONCERNING THE GUARANTEE SECTION OF THE
E.A.G.G.F., CEREAL SECTOR

(transmitted by the Commission to the Council, the European
Parliament and the Court of Auditors)

VOLUME I

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I N T R O D U C T I O N

The Special Committee of Inquiry, which was set up by the Commission at its 266th meeting on 3 October 1973 and had its terms of reference extended on 5 March 1975, has as its principal task the analysis of known cases of fraud, the study of Community rules and their application by national authorities in order to detect the loopholes which could lead to fraud or irregularity or to the misuse of public funds, and the proposing of effective measures to eliminate where possible any opportunities for fraud in the future. The public funds in question are those of the FEØGA Guarantee Section.

After submitting four reports on expenditure by the FEØGA Guarantee Section (milk and milk products, oilseeds and olive oil, beef and veal, and wine), the Special Committee of Inquiry has now investigated the cereals sector which forms the subject of this report. Its investigation has been limited to the cereals sector in the strict sense, i.e. rice and food aid were not looked at.

As in its previous investigations, the Committee made use of questionnaires to gain a complete picture of the rules and thus to evaluate the practical application thereof and pinpoint the areas where loopholes might exist. In addition to the information about fraud reported to the Commission by the Member States under Regulation No. 283/72 and forwarded by the Commission to the Committee, information was obtained by the Committee from standard questionnaires. These sources provided it with enough material for a thorough study of all the problems posed by the rules and of the inadequacies of control procedures.

Visits were also organized to five countries : France on 12-15 June 1978, the Federal Republic of Germany on 18-21 September 1978, Italy on 9-13 October 1978, the Netherlands on 30 November-1 December 1978 and Denmark on 12-13 March 1979.

The purpose of these visits was to enable the members of the Committee to see for themselves how the intervention and the cereals trading system function in practice and to obtain a clearer picture of the economic background against which operations in the cereals sector are conducted.

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The Special Committee of Inquiry wishes to take the opportunity provided by the submission of this report to recapitulate the general conclusions and recommendations of its earlier reports.

In the first place, the Committee has advocated improvement of Community rules to achieve greater clarity and to modify certain arrangements which are particularly difficult to implement. It has stressed the importance of greater cooperation between the administrative authorities within each Member State, between the various Member States, and between the Member States and the Commission, together with the need for and improvement in control procedures. It has suggested bridging certain gaps in the control system and introducing more effective ways of recovering aid improperly paid. Finally it has stressed the importance of better training for the staff in charge of controls.

In the investigation carried out for this report, the Special Committee of Inquiry considered the circumstances of all the irregu-

larities brought to its notice in the cereals sector and the weaknesses likely to be exploited in the systems of administration and control. It studied the possible measures that the Community and the national authorities could take in order to make good the inadequacies in the rules and safeguard the Community's interests.

The Committee began its task by analysing the economic problems of the sector and the Community measures taken to solve them. These are dealt with in the first two chapters.

It then examined one of the main sensitive areas, namely intervention (Chapters III to VI). Three chapters are devoted to the particular problems of transfers, production refunds and aid to durum wheat.

Another sensitive area is the implementation of rules on trade; the Committee studied the problems of Community transit, monetary compensatory amounts and trade with non-member countries. These matters are dealt with in Chapters VII and VIII.

Finally the Committee has devoted one chapter (IX) to special problems arising in connection with trade in processed products, more particularly the difficulties in analysis and in calculating the overall monetary compensatory amounts on the basis of the monetary amounts on the constituent basic products.

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Composition of the Special Committee of Inquiry :

Officials of the Member States :

Mr. J. ALEX	Ministère des Affaires Etrangères, Luxembourg
Mr. W. CASEY	Office of the Revenue Commissioners, Dublin
Mr. J. FRENCH	Treasury Chambers, London
Mr. M. GLORIEUX	Ministère des Affaires Economiques, Brussels
Mr. K.G. OLSEN	Landbrugsministeriet, København
Mr. F. PEZZOTTI	Comando Generale della Guardia di Finanza, Roma
Mr. H. SCHMIDT	Bundesministerium der Finanzen, Bonn
Mr. J. THILL	Ministère de l'Economie et des Finances, Paris
Mr. H.W. van SPRONSEN	Ministerie van Landbouw en Visserij, s'Gravenhage

Commission officials

Mr. C. FACINI	Director-General of Financial Control, Chairman of the Committee
Mr. K. PINGEL	Director-General, Head of the Customs Union Service (until 30 April 1979)
Mr. F. KLEIN	Director-General, Head of the Customs Union Service (from 18 June 1979)
Mr. H. von VERSCHUER	Deputy Director-General for Agriculture (until 14 January 1979)
Mr. A. PIZZUTI	Deputy Director-General for Agriculture (from 15 January 1979)

CHAPTER I

THE CEREALS SECTOR

I. ECONOMIC SIGNIFICANCE OF THE SECTOR

A) World production ¹

World production of cereals totals 1 060 million t, of which wheat accounts for 380 million t.

The main wheat producers are the United States (53 million t), the USSR (90 million t), Canada (18 million t), Australia (11 million t) and the Community (40.5 million t). The rest of the world produces 168 million t.

Feed grains (680 million t) are grown mainly in the United States (183 million t), the USSR (98 million t), Canada (19.5 million t), Argentina (15.5 million t) and the Community (60.5 million t), the rest of the world producing 304 million t.

B) Size of world market

Every year the world market handles about 66 million t of wheat ², of which 3 million t is durum wheat. This is more

¹ Average 1973 to 1977. Source : FAO

² Average 1972 to 1976. Source : FAO and OECD

than the Community's total production. World trade in feed grain totals 68.5 million t² annually, again more than total Community production. This includes approximately 55 million t of maize, 8 million t of barley and 2 to 3 million t of sorghum.

The world market is not therefore of marginal importance since it accounts for 17 % of world wheat production and 10 % of feed grain production.

Three countries, the United States, Canada and Australia, always have a surplus for all cereals. North America is dominant, particularly in feed grain. The USSR, although a very large producer, can only just meet its own needs and the Community depends on the world market for 17 % of its feed grain supplies¹.

C) The Community's part in world trade

Of the 63 million t of common wheat offered on the world market the Community purchases 5.6 million t² and sells 5.6 million t (including flour : 3.9 million t in wheat equivalent). It also buys 1.1 million t of durum wheat, i.e. more than one third of the amount sold on the world market. Estimates for marketing year 1978/79 are for imports of 4 million t of common wheat, 1 million of durum wheat and over 5 million t in exports (including flour).

Of the 68.5 million t of feed grain traded annually the Community imports 17 million t², of which 13 million t is maize, but exports only 3 million t. Of the 13 million t maize, 2.5 million t is for processing into starch.

¹ Net import balance (imports minus exports) as percentage of total consumption

² Averages 1972 to 1976. Source : FAO and OECD

The Community is dominant however in the markets in processed cereal products (mainly flour and malt), its market share ranging up to 60 %. Although these markets are much smaller (only 4.5 and 2 million t) than the wheat and feed grain markets, they are more stable. The added value is considerable.

D) World prices

After a long period of stability world prices have risen considerably since 1972, in part because of harvest shortfalls in the USSR and a reduction in areas sown in the United States.¹

By 1974 world prices were triple those in the stable period, but after 1976 they reverted to levels approaching those of 1971; they then stabilized before showing an upward trend half way through 1979.

Until 1975 world prices were very sensitive to fluctuations in supply and demand and the world market reacted to all development on any scale anywhere in the world. This dependence has been reduced since then by the United States stabilization measures, in particular by the increase of producers' stocks, released when prices attain a certain threshold.

Since 1971, market prices fixed in dollars have been affected by the fluctuations in the dollar's value. This structural phenomenon seriously handicaps trade as it creates a speculation element that is external to the market itself.

¹ 10 % decrease between 1967/68 and 1969 to 1972

The world market thus has three main features : the chronic deficit in many countries, the very strong position of North America as the only area with regular large surpluses, and the price variations entailed by fluctuations in the value of the dollar.

The purpose of the Community's policy is to shield consumers and producers from world market price fluctuations by means of a bracket¹ within which market prices are left free to find their own levels.

II. SITUATION IN THE COMMUNITY (see diagram at end of Chapter and at Appendix I)

A) Area sown

The area under cereals has been stable for many years at around 26 million hectares. This overall stability however disguises different trends for the various cereals. The areas under oats and rye have been halved and that under common and durum wheat has remained relatively stable. The last 20 years have however been marked by a considerable development in barley and maize growing. Over the last few years there has been some stabilization in the areas given over to each cereal.

B) Production

Total cereal production in the Community of Nine (discounting the year-to-year variations caused by variable weather conditions,

¹ Intervention price/target price.

in particular the poor 1975 and 1976 harvests) has increased steadily over the past 20 years from around 70 million t to its present level of around 110 million t, made up of 40 million t of common wheat and almost the same amount of barley, 15 million t of maize, 8 million t of oats and 3 million t each of durum wheat and rye. This growth is due to an increase in average yields, which rose from 26 quintals per hectare in 1960 to 41 in 1978.

Two factors are responsible for this increase : technical progress (use of fertilizers, crop protection, irrigation) and the replacement of some spring cereals (barley and, to a lesser extent, oats) by higher yielding but poorer quality winter ones. Yield improvements vary however for the different cereals. Between 1960 and 1978 the durum wheat yield went up from 11 to 20 q/ha and the maize yield from 30 to 57 q/ha.

Under the combined effect of variations in the areas sown and increased yields, the following changes occurred between 1960 and 1978 for the different cereals :

- a sharp increase in maize and barley production:

<u>maize</u>	from 5 million t to more than	15 million t
<u>barley</u>	from 17 million t to more than	38 million t

- a market increase in production of common and durum wheat :

<u>common wheat</u>	from 28 million t to	40 million t
<u>durum wheat</u>	from 1,5 million t to more than	3 million t

- a reduction in production of rye and oats :

<u>rye</u>	from 5 million t to	3 million t
<u>oats</u>	from 13 million t to	8 million t

C) Consumption

Total cereal consumption in the Community of Nine rose steeply between 1959 and 1974, from 90 million t to 115 million t.

The use of cereals for human consumption is however declining slowly. Despite the population increase, it has gone down from around 30 million t in the early sixties to its present level of 28 million t.

The increase in consumption is therefore due essentially to an increase in the amounts used for animal feeding (48 million t in 1960/61, 72 million t in 1973/74) and to a smaller extent to increased usage (principally malt and starch).

This trend has reversed since 1974. Total cereal consumption fell by 4 million t between 1973/74 and 1977/78, as a result of a rapid growth in the use of substitute products for animal feeding. These products, which include gluten feed, citrus waste, oilcake and above all manioc, are imported into the Community at prices that are very competitive with those of Community-produced cereals since there are either no levies or only low ones.

D) Trade

Of the common wheat sold on the world market, 9 % is imported into the Community (5.6 out of 63 million t). The figure for durum wheat is 35 % (1.1 out of 3 million t), and for feed grain 20 % (14 out of 68.5 million t), including 11 million t of maize and 2 million t of barley). The Community imports another 2.5 million t of maize for starch production. The greater part of these quantities comes from the United States.

Of the common wheat sold on the world market, only 3 % (1.7 million t) comes from the Community. But export of flour brings

the figure up to 9 % (5.6 out of 63 million t). The figure for feed grain is 4 % (3 out of 68.5 million t). The Community exports another 2 million t of barley in the form of 1.3 million t of malt. It dominates the flour and malt markets.

Except in poor harvest years such as 1975 and 1976 exports have gone up more rapidly than imports.

Trade within the Community of Six has developed greatly since the single market was instituted in 1967. By the 1973/74 marketing year the amount traded was over 12 million t¹. Since then it has hovered around the 8 million t mark¹ but increased again in 1977/78.

Enlargement of the Community opened a big market principally for wheat and maize. The relative smallness of the 1975 and 1976 harvests however stopped the expected upswing in trade taking place.

Common wheat (6 million t), barley (4 million t) and maize (6 million t)² account for most of the trade. Barley is the only cereal in which trade has not increased since enlargement, the new Member States being themselves big producers.

III. ECONOMIC AND FINANCIAL EQUILIBRIUM

The Community of Six, and still more the Community of Nine, traditionally has a shortfall in cereals. However since 1960, apart from the exceptional years of 1975 and 1976 when the harvests were

¹ Source : EUROSTAT

² Average 1973/74 to 1977/78. Source : EUROSTAT

very poor, Community production has been going up more rapidly than consumption. The Community's degree of autarky increased steadily from 77 % at the beginning of the sixties of over 90 % in 1974¹.

In 1978, with a record production of more than 110 million t and consumption which after declining for four years stood at around 110 million t, the Community was for the first time slightly in surplus.

This is the overall picture. For the individual cereals there are variations.

There is still a shortfall of maize and durum wheat. Maize imports at the moment are 13 million t and imports of durum wheat 1 million t, i.e. 25 % of requirements. There is a surplus of common wheat and barley but certain qualities (high-gluten wheat) continue to be imported.

Consequently, during the 1978/79 marketing year, more than 15 million t of wheat and barley will have to be either exported to non-member countries or put into storage.

Because of fluctuations in the amounts harvested it is difficult to make any accurate forecast of the future situation, but there is a general risk of a continuing surplus as a result of two factors :

- a continued rise in production owing to an increase in yields and the spread of higher yielding winter cereals;
- a continuing decline in consumption owing to an increasing use of substitute products in animal feeding.

¹ Source FAO and EUROSTAT

Imports of these products rose from 6 million t in 1973/74 to 14.5 million t in 1977/78 ¹; during the same period the quantity of cereals used in animal feeding went down, from 72 million t to 68 million t. Common wheat was most affected and barley to a lesser extent while consumption of maize stayed practically the same.

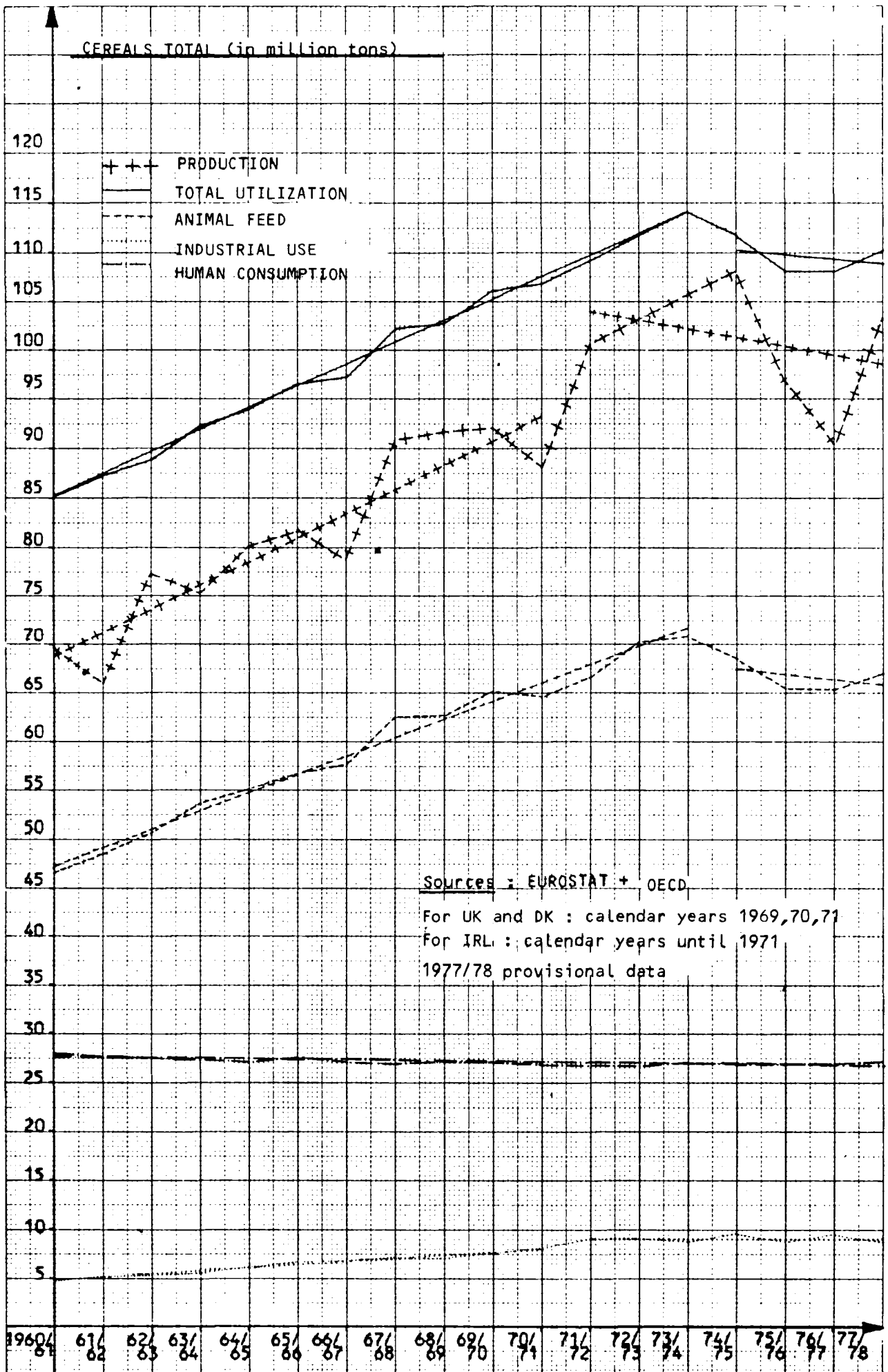
Despite the overall surplus the Community will continue to suffer a shortfall of maize, the possibilities of growing more of which appear limited, and of durum wheat. It is liable on the other hand to have rapidly growing surpluses of barley and common wheat.

The situation becomes of even greater concern when it is remembered that world market prices are half the Community prices, which are about 160 ECU/tonne for common wheat and barley. Disposal of Community surpluses on the world market at high refund rates is therefore liable to absorb large amounts of Community funds.

Total FEOGA expenditure for cereals, as shown in the table on page 26 was 625 million EUA during the period 1975 to 1977. It practically doubled in 1978 and the budget appropriation for 1979 is 1.574 million EUA.

This increase is almost exclusively due to refund costs, which rose from 400 million EUA in the period 1975 to 1977 to 832 million EUA in 1978. The budget appropriation for 1979 is 1.209 million EUA.

¹ In barley equivalent



CHAPTER II

COMMON ORGANIZATION OF THE MARKET AND ITS FINANCING

The market in cereals was one of the first for which a common organization was set up (EEC Regulation No 19, 4 April 1962). The organization included a Management Committee, consisting of Member States' delegates, who would meet weekly to monitor the cereals market and an intervention agency in each Member State.

During the transitional period, from 30 July 1962 to 30 June 1967, a large number of measures common to the six Member States were adopted, but the six markets in cereals did not form a single market. Prices varied considerably from one Member State to another, so that intra-Community levies had to be maintained.

The end of the transitional period - 1 July 1967 - marked the changeover to the single market, based on Council Regulation No 120/67/EEC of 13 June 1967 on the common organization of the market in cereals. (This Regulation has since been superseded by Council Regulation (EEC) No 2727/75 of 29 October 1975).

The common market organization is based on the principles set out in Articles 39 and 110 of the Treaty establishing the EEC: market stability, reliable supplies, fair prices for producers, reasonable consumer prices and due regard for the world market. The target price ¹ fixed for the Community takes account of the

¹ intervention price : price at which the intervention agencies must buy in the products offered to them

Target price : wholesale price which the common organization of the market aims to guarantee the producer

Threshold price : the lowest price at which a product from a non-member country may enter the Community to reach the Duisburg wholesale market at not less than the target price

abovementioned conditions, and actual prices are guaranteed with the aid of protection at frontiers (threshold prices, see footnote page 14) and internal market support (intervention price, see footnote 1 page 14). The Community preference in respect of supply is thus assured up to the threshold price level, and obligatory buying-in at the intervention price, subject to certain quality criteria being met, guarantees producer prices for the main types of cereal.

I. THE PRICES SYSTEM

A) The prices system up to 1976

The basic rules provided for a single intervention price per cereal, but with regional differentiation to reflect differences in natural conditions of market formation.

The prices hierarchy for cereals, which affects the threshold price, was decided on without reference to the nutritional value of each cereal, which led to imports of certain types of cereal, thereby modifying the market conditions for Community cereals.

This prices system and the resulting hierarchy failed therefore to stabilize market prices at the desired level, i.e. between the intervention price and the target price, as is shown by a number of intervention measures.¹

B) The new prices system

This situation led to a new system for fixing intervention prices for the principal types of cereal from the 1976/77 marketing year onwards, the aim being better balance between

¹ Common wheat : 1.268 million t in 1973/74 and 2.057 million t in 1974/75
Rye : 0.139 million t in 1973/74 and 0.133 million t in 1974/75
Barley : 0.365 million t in 1973/74 and 0.065 million t in 1974/75

the various branches of production on the basis of real market requirements, without affecting producers' incomes. The system is often called the "silo system" because of the shape of the diagram used to represent it (see table on page 27).

The system is based on the fact that the bulk of cereals produced in the Community is used as livestock feed. All cereals, with the exception of durum wheat, compete with each other for this use.

The feed grain market is in deficit and dependent on maize imports, whereas there is a surplus of common wheat. The new system should permit the use of surplus common wheat to meet market requirements, without the need for permanent intervention measures.

The reform is based on the fixing of a common single intervention price for the most important fodder cereals.

The reform also aims to establish criteria to be applied in fixing the target price (and hence the threshold price) which reflect more accurately the nutritional value of the various categories of cereals, their respective market values and the Community preference.

The system also established different prices for different qualities of common wheat, thus laying the foundations of a policy to improve quality, made necessary by the increased cultivation of high-yield varieties of poor quality for bread-making. Quality protection is ensured by fixing a reference price for common wheat of bread-making quality, permitting optional intervention in respect of that quality of wheat.

The difference between the intervention price and the reference price is calculated to cover the difference in yield between non-bread wheat and bread wheat.

II. THE PRESENT INTERVENTION SYSTEM

A) Market regulation measures

The market is supported by basic decisions on such matters as intervention, target and threshold prices (see III A), which are increased monthly, and by management decisions entailing direct, specific action to prevent anticipation of market trends. Such measures are private storage aid and intervention measures in respect of common wheat of bread-making quality.

1. Private storage aid

When there is an adverse market trend, the Commission can propose that holders of stocks of all cereals sign storage contracts in which they undertake to keep a certain quantity for a given period in return for payment of a special premium. The Community thus avoids having to buy in massive quantities because prices have fallen.

2. Measures relating specifically to common wheat of bread-making quality

These special measures include private storage aid accompanied by a right of preemption by the intervention agency at the end of the storage period to prevent speculative storage at the expense of the FEOGA ¹.

A second measure is buying-in by the intervention agencies at the reference price. This can be confined to certain regions and to a certain period of time.

¹ FEOGA : European Agricultural Guidance and Guarantee Fund

A third measure enables the Commission to purchase by tendering procedure at the reference price a certain quantity of bread wheat having certain qualitative and technical characteristics.

3. Carry-over payments at the end of the marketing year

Intervention prices, which are increased each month during the first ten months of the marketing year, are normally higher at the end of one marketing year than at the beginning of the next. To forestall massive intervention as a result of a sharp drop in the price of cereals, the Council has power to award a carry-over payment to make up the difference. This payment may not, however, exceed the difference in the national currency, between the target price valid for the last month of the marketing year and that for the first month of the new marketing year.

4. Intervention buying-in, storage and remarketing

The intervention agencies must buy in the cereals offered at the intervention price, provided that they are offered in appropriate quantities and are of the right qualities.

The cereals must be resold under a tendering procedure open to any interested party.

Two methods of disposal are available :

- resale on the EEC market. To avoid a deterioration in market prices, the resale price must be equal to the local market price and must not be less than the intervention price plus 1.50 u.a./tonne;

- resale for export. The terms for each operation are laid down by the Commission, advised by the Management Committee. These price terms must be similar to those for exports from the free Community market.

B) Transfer from one intervention agency to another

Besides the basic rules governing management of the market, the Council adopted in 1973 a measure authorizing the transfer of cereals from one intervention agency to another to restore a normal supply situation to regions of the Community which have a cereals deficit and traditionally import cereals and which were faced with the shortage on the world market and the resulting sharp rise in prices.

Other such measures have been adopted on several occasions since 1973.

C) Production refunds

Because of the special situation on the market in starch-based products, a production refund is granted so that the basic products can be offered to processors at prices lower than those resulting from the application of levies and common prices.

D) Aid in respect of durum wheat

As it was proving impossible to give durum wheat producers adequate guarantees by fixing a price which took account of the price differential normally existing between common and durum wheat on the world market while still respecting this differential as far as possible in the Community because of

the possibility of substitution, aid was granted for the production of durum wheat, according to quantities produced.

In view of the rise in the Community production of durum wheat, it was no longer justified to grant uniform aid to all producers. However, with a view to encouraging an increase in productivity and an improvement of the quality of this product, aid was maintained for certain regions and for durum wheat having certain qualitative and technical characteristics making it suitable for the manufacture of pasta.

III. TRADE WITH NON-MEMBER COUNTRIES

A) Import measures

Cereals from non-member countries are subject, on entry into the Community, to a levy which is based on the difference between world market prices and the Community threshold price.

B) Export measures

1. The export refund

Cereals prices are usually higher in the Community than on the world market. To restore conditions of normal competition and enable the Community to take part in world trade, refunds are granted to exporters to bring their export prices in line with those obtaining on the world market.

To ensure fuller control over the quantities exported, some cereals are exported by way of invitation to tender for the refund.

Unlike the levy, the refund is not automatic and when it is applicable the amount and conditions reflect the Community's commercial policy as well as the difference between Community prices and world prices.

2. The export levy

However, in the event of a world shortage, supplies may be so short that Community prices may become more attractive to purchasers in non-member countries. Export levies are then charged over and above Community export prices. This measure has been implemented for only a few months, in 1974 and 1975.

C) Licences

Trade in cereals with non-member countries requires a licence issued by the Member States to applicants therefore : the licence must be presented to the customs authority of each Member State. The applicant may request at the same time the advance fixing of the levy or refund to cover himself against fluctuations in world prices at the time of the transaction.

D) Safeguard clause

There is a safeguard clause to enable the Commission to adopt under an emergency procedure any appropriate measures, should trade with non-member countries be disturbed by exceptional circumstances.

The balance between resources and requirements is such that a few factors (USA crops, unusual weather) are enough by themselves to generate wide variations in prices. In these circumstances, the authorities have power, under the safeguard clause, to restrict or discontinue altogether the issue of licences and to reduce or abolish the levies or refunds or their advance fixing.

IV. MONETARY COMPENSATORY AMOUNTS

When the French franc was devalued in 1969, this raised problems with regard to the alignment of agricultural prices. An immediate adjustment of agricultural prices on the basis of the new rate would have caused a substantial rise in agricultural prices in France. It was decided to introduce monetary compensatory amounts on the understanding that they would be phased out as the periodical price adjustments took effect.

From 1971 onwards, some Member States allowed their currencies to float, with the result that agricultural prices expressed in units of account converted into national currencies at the rate declared to the IMF no longer coincided with the prices converted at market rates. But an alignment on uniform prices calculated at market rates would have caused price increases regarded as excessive for consumers in some Member States and reductions prejudicial to farmers' earnings in others.

MCAs had to be introduced to cushion the impact on the u.a. rates on intra-Community and extra-Community trade. Council Regulation No 974/71 established the MCAs to make up the difference between intervention prices based on the official parity (used in the CAP) and the real parity. For this reason, MCAs are calculated only in national currencies. They are adjusted periodically to take account of currency fluctuations. The price differences are reduced when

prices are adjusted each year due to changes in the u.a. conversion rates (green rates). Green rates were introduced on 1 February 1973 when the new Member States joined the Community and were later extended to the other Member States.

In 1979 the inauguration of the European Monetary System (EMS) brought the amounts down to some extent. However, while the present situation continues, the Member State with the stronger currency levies MCAs on imports and grants them on exports, and the Member State with the weaker currency charges MCAs on exports and grants them on imports of basic and processed agricultural products.

The value of MCAs on processed products is further adjusted by a coefficient applied to the MCAs on the basic products which they contain. This aspect is considered more fully in Chapter IX.

V. FINANCING OF THE CEREALS SECTOR (see table on page 26)

Total FEOGA guarantee expenditure on cereals remained stable in absolute terms between 1975 and 1977. It represents 13 % of overall guarantee expenditure in 1975 and 9.2 % in 1977.

Since then it has risen steeply, accounting for 12.8 % of guarantee expenditure in 1978, and is estimated at 15.1 % in the 1979 budget.

This unfavourable trend is almost entirely due to the rising cost of refunds; intervention expenditure remained relatively stable between 1973 and 1979.

A) Export refunds

In 1974 expenditure on refunds was far lower than in 1973 because of the situation on the world market, to the extent that export levies had to be introduced in 1974 because world prices were higher than Community prices.

After a period of stability from 1975 to 1977, expenditure on refunds rose sharply in 1978. The reason was the increase in quantities exported and the higher rate of refund. One of the reasons for mounting exports is the increasing preference of consumers for substitute products, which means more exports of Community feed grains.

B) Intervention

Intervention expenditure stayed relatively stable at 250-320 million EUA between 1974 and 1978.

1. Carry-over payments

The differences in target prices converted to national currencies (including monthly increases) from one year to the next since 1975 and the poor harvests in 1975 and 1976 meant that such measures did not have to be adopted, but carry-over payments did have to be reintroduced for the 1978/79 marketing year.

2. Buying-in and subsequent operations

Intervention purchases and sales account for a relatively low total compared with the important economic function of these measures (support of the guaranteed minimum price). However, the poor harvests in 1975 and 1976 helped to keep intervention costs at these levels.

3. Production refunds

The drop in expenditure since 1974 is due to a change in the method of calculation of the refund (see Chapter V).

4. Aid in respect of durum wheat

This is a relatively stable item of expenditure since it has depended since 1976 on the area sown with durum. The apparent fluctuation is mainly a matter of variations in the time taken to make payments.

FEOGA GUARANTEE SECTION EXPENDITURE ON CEREALS

million EUA

	1973 ¹	1974 ²	1975 ²	1976	1977	1978	1979 ³	1980 ⁴
Total expenditure	1.051,4	383,0	589,3	655,9	629,9	1.112,5	1.574,2	1.727,5
REFUNDS	542,2	66,5	329,9	403,4	365,7	831,9	1.209,4	1.243,5
INTERVENTION (measures to regulate internal market)	509,2	316,5	259,4	252,5	264,2	280,6	364,8	484,0
Aid to private storage + other measures	-	-	-	15,6	1,4	-	-	17,9
Subsidies for the import of fodder grain in Italy	1,2	0,4	0,4	0,4	0,6	2,2	1,6	2,9
Carry-over payments	31,1	3,5	0,5	- 0,1	-	13,0	35,8	106,4
Denaturing + incorporation ⁵	128,7	16,4	0,3	-	- 0,1	0,1	-	-
Buying-in and consequent measures	52,1	32,1	64,5	102,6	51,0	59,4	65,8	88,5
Production refunds ⁶	185,4	194,8	90,6	51,2	76,7	117,0	135,2	145,9
Aid to durum wheat	110,7	69,3	103,1	82,8	134,6	89,0	126,4	122,4

1 12 month period

2 Adjusted for the MCAs included in the refunds

3 Budget appropriations for 1979 having regard to draft amending budget No. 3

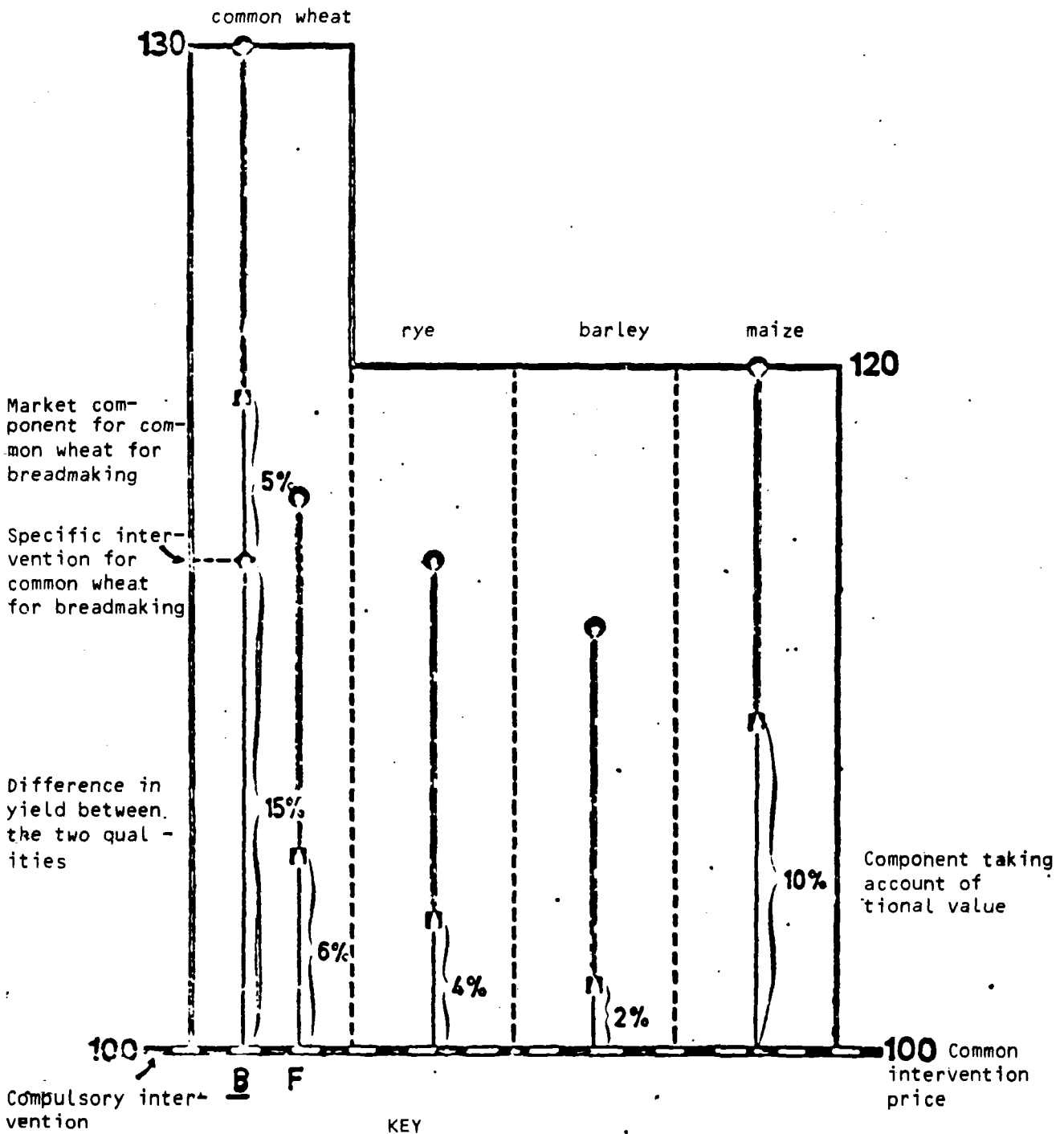
4 Appropriations of Council Draft Budget

5 Measure discontinued on 1 August 1976 by Article 3 of Council Regulation No 1143/76, amending Article 7(3) of Council Regulation No 2727/75

6 Including production refunds for potato starch, rice starch and broken rice for brewing

Note : for comparability, the figures have been converted into million EUA, taking account, where necessary, of the effect of the double rate

THE SILO SYSTEM IN ITS FINAL FORM



- KEY
- : Theoretical market price in main surplus region
 - : Theoretical market price in main deficit region
 - : Regional component : freight cost between surplus region and deficit
 - W : Bread wheat
 - F : Feed grain

CHAPTER III

MARKET REGULATION MEASURES

SECTION I - INTERVENTION BUYING AND SUBSEQUENT MEASURES

To guarantee the minimum producer price, the common organization of the market in cereals provides for the intervention agencies to buy in stocks of agricultural produce, the cost (i.e. the difference between the buying in price and the selling price, storage costs and interest on national funds tied up by buying in the produce) being borne by FEOGA. Between 1973 and 1978 the average annual cost of this policy was 60 M EUA. This amount represents 8.2% of the average annual expenditure in the cereals sector in general in that period, and 19.2% of expenditure on internal market regulation measures (see table p. 26).

A) Management of the intervention system

1. Summary of the rules

According to the basic regulation on cereals (Council Regulation (EEC) No. 2727/75), the intervention agencies are obliged to buy in any cereals which have been harvested in the Community and which are offered to them, provided that the offers meet certain conditions as to quality and quantity. Intervention agencies buy in at the single intervention price. If the quality of the cereal differs from the standard quality for which the

intervention price is fixed, the price is adjusted in accordance with a scale of increases or reductions.

The intervention price is subject to monthly increase from the second month of the marketing year until the tenth month to allow, at least in part, for the cost of storage.

Commission Regulation (EEC) No. 376/70 stipulates that if the goods are remarketed the selling price must correspond to the local market price, adjusted for the quality increases and reductions. However, the goods may be remarketed only if the selling price exceeds the intervention price plus 1.50 u.a./tonne.

2. Application of the intervention system

(a) Legal and administrative conditions of intervention

Under the Community rules, the intervention agencies buy in cereals at the intervention price, adjusted for any increase or reductions for quality, and sell them at the local market price, also adjusted for any quality increase or reductions.

However, the intervention system applied in one Member State differs in its implementation from that in the other Member States, as laid down by Community rules, in that the intervention agency concerned does not itself buy in cereals but commissions private

undertakings to do so under a storage/purchase contract. The storer/buyer is the owner of the goods, but he has no choice in the matter of vendor when the goods are taken into intervention or of purchaser when the products are remarketed, vendor and purchaser being designated and the basic price being fixed by the intervention agency.

Quality increases and reductions are, however, freely negotiated between the storer/buyer and the vendor or purchaser. In its accounts the intervention agency enters the cereals bought in or sold at the price for the standard quality, i.e. it does not record the quality increases or reductions. This is the amount which is entered in the FEOGA account, rather than the actual price, which is based on the real quality.

(b) Quantity loss

According to statements recorded in the Council minutes when Regulation (EEC) 787/69 on the financing of intervention expenditure was adopted, the Member States are supposed to take all appropriate measures to prevent products bought in by the Community from deteriorating. As regards quantities of cereals in storage, this principle was embodied in the Regulation on the financing of intervention expenditure by the institution of a tolerance of 0.3%. Any quantity loss beyond this tolerance is to be borne by the Member State. The Member State may choose not to apply the

tolerance, in which case the standard amount granted for storage is increased by 0.3% of the intervention price.

In the event of accidental loss, the Member State bears the consequences. The standard amount for storage granted to the Member State contains a component representing the cost of insurance against loss or damage. The Member State is free to take out an insurance policy or to be his own insurer. The sharing of responsibility between the intervention agency and the stores is spelt out in the storage contract concluded between them. The content of the contract may vary from one Member State to another. The storer/buyer (see (a) above) accepts responsibility for any quantitative loss other than that arising from natural disasters.

In the event of deterioration due to such phenomena, the financial responsibility is a matter for discussion between FEOGA and the intervention body of each Member State.

(c) Problems relating to quality

- Depreciation of goods

In the statements referred to in (b), the Member States also assumed certain responsibilities for preserving quality. Although no regulation lays down the precise scope of this responsibility, it has become the practice for the Member States to bear financial loss resulting from a deterioration of the products in storage due to the conditions of storage or carriage. However, if the deterioration

is due to prolonged storage for which the intervention agencies are not responsible, FEOGA then bears the financial consequences.

But interpretations may differ in such situations.

- Improvement of quality

FEOGA bears the cost of certain operations for preservation (drying, homogenization, cold storage, etc.). Where there is an improvement in quality as a result of these measures, the FEOGA benefits. The Committee has, however, not been able to establish, on the basis of the costs of the various processes and of the advantages accruing with regard to preservation and improvement (if any) in quality whether, from the financial point of view, certain processes should be preferred to others.

In the Member State mentioned earlier, FEOGA does not finance any operations for preservation or quality improvement; on the other hand, it is not entitled to any profit that may result. These operations are financed by the storer/buyer who benefits from them at the time of sale.

B) The cost of intervention

FEOGA grants a standard payment for the duration of storage and the tonnage actually stored, expressed in tonne/months.

The standard payment represents the weighted average of unit costs of the various intervention agencies.

The Committee notes that some regions are at a disadvantage because the costs of storage, entry and removal vary. Some installations are more efficient than others and the degree of competition may vary. Intervention storage is a major factor in one Member State, and practically non-existent in others, and this affects the price asked by storers.

The Committee has therefore been unable to make a direct comparison between intervention costs in the Member States. While it is certainly arguable that the standard-payment system is not completely fair, it must be conceded that the weighted average has the advantage, in comparison with real costs, of providing an incentive for the highest-cost intervention agencies to obtain the lowest costs from the storers.

C) Procedure for remarketing

1. Remarketing on the internal market

(a) Summary of the rules

The intervention agencies remarket cereals in their possession by tendering procedure. They are free to issue an invitation to tender but must observe the following rules:

- they must notify the Commission;
- they must publish invitations to tender to ensure equality of access and competition;
- they must observe the local market price at the place of storage at the time of sale. If that price is lower than the intervention price plus 1.50 u.a.

the sale is postponed to prevent prices from falling to the intervention price level;

- in special cases, provided for by regulation 376/70, cereals may be offered for an intervention centre other than that where they are stored. The criteria regarding the resale price to be observed are those applicable to that centre. If the most favourable transport costs between the place of storage and the place of destination exceed the most favourable transport costs between the intervention centre of resale and the place of destination, the difference is refunded by the intervention agency.

(b) Management problems

The Commission's staff have stressed that the remarketing of stocks is a matter for the national intervention agencies and that the Commission cannot therefore intervene directly where there is a disequilibrium between surplus and deficit markets.

The publication of invitations to tender takes different forms in the individual Member States, particularly as regards time-limits for tendering.

Differences of view as to the local market price may arise because the intervention agency and the Commission do not always use the same sources of information.

In the cases referred to in Regulation 376/70 where cereals can be bid for in respect of a marketing centre other than that where they are stored, evaluation of transport costs is left to the intervention

agencies under the conditions referred to in (a).
Methods of calculation vary from one intervention agency to another.

2. Remarketing for export

(a) Summary of the rules

Issue of an invitation to tender is left to the discretion of the Management Committee, which delivers an opinion when a Member State submits an application. The Commission decides what quantities should be put up for tender, selects the storage regions concerned and the location for which the minimum resale price is valid and for which the tenders must be submitted and also fixes the deadline by which tenders must be in.

The minimum price is fixed at a level which will not interfere with other exports.

(b) Management difficulties

In view of the prices tendered for certain cereals, specially rye, the demand for which on the world market is not strong, the Commission often has to refuse all tenders to prevent the collapse of market prices and then has to initiate a new tendering procedure. Disposal of some lots may thus take several months or as much as a year.

D) Recommendations

1. Allocation of responsibility for protection from deterioration

The Committee finds that the rules do not adequately define the respective obligations of the national

intervention agencies and the Commission in regard to the protection of merchandise from deterioration. It notes that preparatory work has begun with a view to improving the rules governing the financing of quantity losses and depreciations of quality.

The Committee recommends that the rules specify more clearly the obligations of each party and the arrangements and procedures that must be followed in the event of dispute.

2. Remarketing

The Committee recommends verification of the extent of the difficulties reported by the Commission's staff in connection with the degree of independence enjoyed by intervention agencies when remarketing was necessary because of imbalance between supply and demand. The Committee recommends that, as appropriate, the necessary proposals should be put forward.

The Committee agrees with the observations made by the Court of Auditors in its annual report (1). The remarketing operation does take a long time. The Committee recommends that action be taken to make more rapid remarketing possible, thus ensuring better management of FEOGA funds.

It has also been noted that subordinate procedures left in the hands of the intervention agencies vary from one Member State to another. The Committee recommends the introduction of measures harmonizing the methods, especially those relating to the advertising of calls for tender.

(1) OJ C 313, 30 December 1978.

SECTION II - SPECIAL INTERVENTION MEASURES (PRIVATE STORAGE)

Private storage measures are decided only for a limited period which depends on the market situation. The cost is therefore very variable from one marketing year to another. (see table on page 26).

A) Summary of the rules

Article 8 of Regulation (EEC) No. 2727/75 provides that, in order to prevent substantial buying in, the Commission may adopt certain intervention measures allowing private individuals or organizations to conclude cereals storage contracts for a given period with the intervention agency.

Storage procedures established by regulations may vary from one season to another and require:

- either that the beneficiary must undertake not to use the quantities under contract during the period prescribed to avoid overburdening the market. He receives the whole premium;
- or that the beneficiary may resell his stocks before the end of the period, provided he has obtained agreement in advance from the intervention agency. He will then receive only that part of the premium corresponding to the actual period of storage.

B) Irregularities

There have been instances of irregularities. The intervention

agencies have had to reduce or cancel the premium due after ascertaining that certain quantities were missing. Because cereals are stored on the recipient's premises, the risk of substitution or removal is high. The attention of the inspection departments must therefore be drawn to the need for supervision of both quality and quantity to prevent substitution with lower quality cereals and to prevent some or all of the stock being used before the expiration of the prescribed period.

C) Recommendations

1. Economic implications of the legislation

The Committee notes that in certain types of contract the storer can sell his products before the contract runs out, provided he has the authorization of the intervention agency, while leaving the cost of storage for the period held to be borne by FEOGA.

It notes that for common wheat of bread-making quality, the Commission has power to adopt, concurrently with the measures described at point A, a measure entitling the intervention agency to purchase, at the end of the contract, all or part of the quantity concerned, to thwart speculation.

The Commission recommends that the economic implication of the present legislation be reviewed in the light of the rules applicable to wheat of bread-making quality, with a view to achieving more efficient management.

2. Prevention of irregularities

The Committee notes that if contracts are broken or terms are disregarded there is no provision for Community penalty, except that the aid is withdrawn (however, penalties are applicable in some Member States). It recommends that a system of providing security be introduced, as in many other matters covered by Community law, in order to deter the beneficiary from any attempt to fraud, under penalty of the security being forfeit to FEOGA.

SECTION III - CARRYOVER PAYMENTS

Each year the Council decides whether carry-over payments are to be made. The cost of this measure varies substantially according to the rate paid and the quantities still in storage at the end of the year. In 1973 the expenditure was 31,1 M EUA and in 1978 13 M EUA, whereas it was virtually nil between 1975 and 1977 (see table p. 26).

A) Summary of the rules

Article 9 of Council Regulation (EEC) No 2727/75 provides that a carry-over payment may be granted in respect of stocks remaining at the end of the marketing year. As prices for the previous marketing year will have been increased every month for 10 months and will normally be higher than those for the new marketing year, there is a danger of a heavy inflow of cereals into intervention. The purpose of

the carry-over payment is to compensate for such a situation.

The carry-over payment may be granted in respect of common wheat, rye, barley and maize harvested in the Community, and of malt in storage at 31 July.

Cereals in storage at the end of the marketing year (31 July) are generally speaking held by merchants or the processing industry. The carry-over payment is therefore granted at that stage.

Since harvests are early in some regions of the Community and appropriate checks have to be made, applicants from these regions are required to submit a stock declaration two months before the end of the marketing year, i.e. 31 May.

B) Control problems

1. Declaration before 31 May

The declaration required of applicants by 31st May does not exempt them from making the declaration on 31 July. Applicants in other regions have to make the latter declaration only. This distinction between applicants has applied only since the end of the 1978/79 marketing year, its object being to save the intervention agencies unnecessary work. But all the applicants have to declare the origin of stocks at 31 July so that invoices can be checked. If any quantity has originated in one of the regions where the obligation to make the early declaration applies, the goods must have been declared at 31 May in order to qualify for the payment. This procedure is less time-consuming than the former one and could achieve similar results, provided that those responsible for

control are even more vigilant during transit operations around the date of eligibility (31 July).

2. Check on stocks and movements

The payment is granted in all countries of the Community where prices in national currency fall at the start of a new marketing year. For maize, however, it is granted only in areas of surplus production. There is therefore a risk of artificial transfers from one region to another in order to qualify for the aid, or of disruption of transport flows as the date of eligibility for the allowance approaches. Stock movements should be carefully checked during this period.

For an applicant to receive aid his application must have been submitted before 7 August showing the stocks of cereals at 31 July. Physical checks on stocks at 31 July therefore becomes impossible except where 31 May stock declarations are required.

Besides, taking into account the small amount of time available and the number of concerns involved, the relevant authorities can undertake only very limited stocks checks these being long and difficult operations.

The competent authority of each Member State undertakes the requisite checks on stocks and movements thereof on its territory. The measures are taken at the initiative of each Member State, for there is no Community regulation. The results of controls are not systematically compared with those of other Member States. Certain Member States

do, however, apply bilateral conventions enabling them to combat fraud effectively.

3. National arrangements

In addition, one Member State applies a special principle for determining whether cereals in transit qualify for aid. They are treated as if they were still at the departure store until they arrive at the buyer's silos. But the Community regulations lay down two conditions for qualification for the payment. The first concerns the ownership of the stocks. It is the owner of stock on 31 July, determined under the terms of the sales contract (thus, the purchaser or the seller) who receives the payment. The second condition is the location of the cereals on 31 July. The practice mentioned can thus lead to results not in line with the regulations when the ownership has been transferred to the purchaser in the departure store. A case brought to the attention of the Committee illustrates this aspect. Merchant A sold maize to merchant B, who is a national of another Member State in which the payment was not being granted for maize. The barge reached customs three days before the entry into force of the allowance in the Member State of origin. The shipping agent has received instructions from the operator to wait three days before completing the customs formalities, solely, it would seem, in order to qualify for the aid.

C) Recommendations

1. Quantity checks

The payment is made at the time of collection, sale or processing, and therefore to firms which must have

accounts. Physical controls of stocks on 31 July are therefore impossible, except in the Member States in which a declaration on 31 May is required. In addition, checks made at a later date are limited because of lack of time, the large number of firms and the time taken up by the operations.

The Committee recommends that checks of accounts at beneficiary firms be stepped up in order to determine the quantities of cereals qualifying for aid. These checks could be carried out along the lines of the Directive of 27 June 1977 relating to the verification of operations financed by the FEOGA guarantee section (1).

2. Checks on transit operations

The Committee notes that there is a very substantial danger of fraud in respect of cereals in transit around the date of eligibility for the allowance. It takes the view that transit operations must be verified by comparing the data in the hands of the official departments and that checking the consignors and the consignees is the only way of coping with the danger of double payments. These checks are all the more necessary in that the obligation to make a preliminary declaration on 31 May has been eliminated in most Community regions. The Committee therefore recommends fuller cooperation between the relevant agencies in the Member States with a view to improving the control of transit operations.

3. National administrative practices

The Committee notes that certain administrative practices relating to transit between Member States are liable to

(1) Council Directive No 77/435, OJ L 172 of 12 July 1977, p. 17

generate difficulties.

It recommends that these practices be reviewed with a view to ensuring that they are in line with the objectives of the Community regulations.

CHAPTER IV

TRANSFERS OF CEREALS BETWEEN INTERVENTION AGENCIES

The Committee would point out that its terms of reference do not cover an assessment of the economic justifications of the common organization of the market in cereals. It has therefore studied the problems arising from transfers only from the administrative and technical angles.

In July 1973 a Member State informed the Council and the Commission that the supply of wheat to users and consumers in its southern regions was hampered by serious difficulties.

This was the result of the world shortage. The supply situation was becoming increasingly difficult and wheat prices were climbing. This gave rise to speculation, with common wheat being stockpiled for sale later at higher prices.

This special situation necessitated special measures for the sale, at very short notice, of a large quantity of common wheat held by the intervention agency of the Member State concerned. By way of derogation from the rules on sale by tendering procedure, the Council authorized sales of a total of 107 000 tonnes of cereals by private contract.

These quantities proved insufficient to restore the supply situation to normal; it was therefore necessary to make available to the intervention agency some common wheat still held by the intervention agencies of some of the other Member States so that these products could be offered for sale in the regions suffering from shortages.

This first transfer was followed by several others between 1976 and 1979.

SECTION I - RULES

A) The rules relating to transfers

1. Council Regulations :

- Council Regulation (EEC) No 2104/73 of 1 August 1973
(consolidated by Regulation (EEC) No 2737/75 of 29
October 1975)

Federal Republic of Germany	150 000 t of common wheat
France	47 000 t of common wheat
Belgium	3 000 t of common wheat
	<hr/>
total	200 000 t of common wheat
	=====

- Council Regulation (EEC) No 873/76 of 13 April 1976
(amended by Regulation (EEC) No 1022/76 of 30 April 1976)

Federal Republic of Germany	130 000 t of common wheat
France	100 000 t of common wheat
Belgium	35 000 t of common wheat
Netherlands	35 000 t of common wheat
	<hr/>
total	300 000 t of common wheat =====

- Council Regulation (EEC) No 1863/76 of 27 July 1976

Federal Republic of Germany	60 000 t of barlet
Federal Republic of Germany	40 000 t of common wheat <u>not</u> suitable for breadmaking

The quantities actually supplied were 80 000 t of barley and 20 000 t of common wheat not suitable for breadmaking.

- Council Regulation (EEC) No 564/77 of 15 March 1977

Federal Republic of Germany	300 000 t of common wheat suitable for breadmaking
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261 000 t were actually supplied.

- Council Regulation (EEC) No 2255/77 of 11 October 1977

Federal Republic of Germany	200 000 t of common wheat suitable for breadmaking
-----------------------------	----------------------------------------------------

A total of 961 000 tonnes of common wheat for breadmaking, 80 000 tonnes of barley and 20 000 tonnes of non-bread common wheat has thus been supplied.

2. Commission Regulations :

Commission Regulations (EEC) Nos 733/77 and 2452/77 laid down detailed rules for the implementation of Council Regulations (EEC) Nos 564/77 and 2255/77 respectively.

B) The content of the Regulations

1. The first Regulation (No 2104/73) specified :

- the time limits for the removal of the goods,
- the maximum quantity available,
- the responsibility of the receiving intervention agency from the moment the product was delivered
- the accountancy and financial conditions, i.e. :
 - . the value of products leaving the supplying intervention agencies' warehouses and the value of products entering the warehouses of the receiving intervention agency were to be shown in the accounts as zero entries,
 - . transport costs were to be borne by FEOGA,
 - . the rules on MCAs were not applicable,
- and the conditions relating to sale :
 - . products could be sold by private contract, by way of derogation from the tendering procedure,
 - . the responsibility of the receiving Member State for ensuring that the products were used for the purposes specified,
 - . a minimum selling price.

2. The Regulation relating to the second transfer (Regulation (EEC) No 873/76 laid down, in addition to the conditions mentioned above, that the tendering procedure

was to be employed for assigning delivery operations and specified certain conditions relating to the invitation to tender.

The Regulation also gave indications as to the place of delivery so as to avoid excessive transport costs, and restored the normal rules of sale (i.e. by tendering procedure) which had been abandoned under the first transfer.

3. The two 1977 transfers were governed by Commission Regulations (implementing the Council Regulations) :
 - the Council Regulations added to the earlier regulations a quality requirement for the product and provided for a decision by the FEOGA Committee on financial problems if necessary.
 - The Commission Regulations laid down the rules relating to coordination between the intervention agencies concerned and the financial details.

SECTION II - OPERATIONAL DIFFICULTIES

The difficulties encountered in this type of operation can be traced through the improvements which have gradually been made to the regulations governing transfers.

A) Delays in taking over the cereals

The greatest difficulties were due to the quantities to be transported, given the time-limits for take-over.

In the case of the first transfer for instance it was necessary to resort to a take-over "on paper" as it was very difficult to transfer such a large quantity within such a short period of time.

The receiving intervention agency accepted consignments which did not satisfy the normal requirements of its market, especially as regards moisture content, because the time available for sampling operations forced its officers to agree to the produce being collected without the quality declaration being verified.

B) Organization of transfer

This was left to the supplying and receiving intervention agencies, which themselves invited tenders for the work from public or private undertakings.

1. Tendering for the transfer operation

A number of operators complained that they had had no opportunity to tender for the transport of the cereals, with the result that the conditions had to be republished several times and the quantities to be transported split up into lots.

Because of the quantities to be transported and the time-limits laid down, few carriers were eligible. The accepted tender price was thus necessarily the result of a specialized and therefore extremely restricted form of competition.

2. Geographical distribution of departure and arrival points

Since the deadlines imposed at the time were very short, consultation between intervention agencies proved difficult. However, in the case of the later transfers, consultation was improved and the transport arrangements could be made more rational.

More generally, the geographical distribution of the transferred cereals in the receiving Member State was dependent on the availability of storage space and the capacity of the milling industry; in some cases part of the cereals transferred went to areas not suffering from the most severe shortfalls.

3. Transport difficulties

The geographical distribution of the stores made necessary a large number of transport operations within certain supplying Member States and the receiving Member State, accompanied by the splitting up of consignments, transshipment and intermediate storage.

This state of affairs naturally resulted in considerable cost to FEOGA. Generally speaking the quantities fixed and the short deadlines acted against the efficiency of the operation.

C) Storage difficulties

Some cereals deteriorated in the stores of the receiving Member State. Where damage was caused by parasites, the origin of the infestation could not be established. Some storage warehouses were not equipped for prolonged storage of cereals from other Member States. The moisture content of cereals produced in other Member States is substantially higher than that normally found in the regions concerned; the equipment of stores in these regions is suitable for the quality of local wheats but is inadequate for the prolonged storage and treatment of wheat from other regions with different characteristics.

D) Delays in selling the cereals (see table page 56)

The periods between the Council decision authorizing the transfers and sale of the cereals in the receiving Member State varied from several months to over a year. About 25 % of the total amount was sold within a relatively short time, but some quantities were not sold until after the next harvest. Two years and one and a half years respectively after the adoption of Regulations (EEC) Nos 564/77 and 2255/77, 37 % of all the cereals transferred were still in store.

In this connection, the authorities of the receiving Member State stressed that the main objective was the psychological pressure on the market, created by the physical presence of the cereals, not their prompt marketing.

E) Difficulties on resale

The regulations governing transfers stipulate that the selling price must be equal to the local market price. This clause in fact applies to all reselling of intervention cereals.

On several occasions (see table page 57) sales took place at prices considerably lower than local market prices, sometimes 10 % or 15 % lower. The widest disparities observed were in the prices of fodder grains.

It should be pointed out, however, that there are difficulties in comparing the prices fetched for transferred produce and those for local produce by reason of the different characteristics of the cereals concerned. The Commission staff therefore allow for a margin to cover the resulting difference in value when calculating the prices which should be obtained for the cereals transferred.

F) Transport costs

For transfers based on the following Regulations transport costs were as follows :

- Regulation (EEC) No 2104/73 : Lit 27 944/ tonne, or Lit 5,539 milliards for the 198 208 tonnes supplies;
- Regulation (EEC) No 873/76 : Lit 33 640/ tonne or Lit 9,998 milliards for the 297 217 tonnes supplies;

- Regulation (EEC) No 1863/76 : Lit 42 076/tonne or Lit 4,172 milliards for the 99 164 tonnes supplied;
- Regulation (EEC) No 564/77 : Lit 49 172/tonne or Lit 12,849 milliards for the 261 315 tonnes supplied;
- Regulation (EEC) No 2285/77 : Lit 41 682/tonne or Lit 8,336 milliards for the 199 999 tonnes supplied.

These costs seem too high. The main reasons have already been mentioned : scattered distribution of departure and arrival points, limited number of specialized transport firms, short deadlines for the transfer operations.

In addition, there is normally a price difference between surplus areas and deficit areas if only due to the cost of transport. Since transport costs are borne by the FEOGA this difference is no longer discernible in the final price of the products transferred. The Committee wonders what effects this could have on the operation of the free market.

SECTION III - RECOMMENDATIONS

The Committee has emphasized the difficulties of organizing transfers and the high cost of the operation.

The Committee considers that one of the objectives of the common organization of the market is to ensure normal supplies in the Community's deficit areas and that transfers should be confined to exceptional situations.

Should the Council decide on another transfer, the Committee recommends that the intervention agencies concerned prepare immediately a concerted plan for the collection and storage of the cereals so as to ensure that the quantities transferred are properly related to the collection and storage facilities in the regions in question, even if this procedure means that the transfer takes longer.

This coordination should also enable the intervention agencies to define precisely the characteristics of the cereals to be transferred, so as to avoid any dispute.

QUANTITIES OF TRANSFERRED CEREALS IN STORE
ON 26 APRIL 1979

Cereals	Regulation No	Date	Tonnes	Delivery taken t	Sold t	Average price Lit/t	Amount Lit million	Quantities in store on 26.4.79
Common wheat	2104/73	1. 8.73	200 000	198 208.093	198 208.093	98 050	19 434	-
Common wheat	873/76	13. 4.76	300 000	297 217.627	297 217.627	159 400	47 376	-
Barley	1863/76	27. 7.76	80 000	79 324.978	79 324.978	135 930	10 782	-
Common fodder wheat	1863/76	27. 7.76	20 000	19 839.342	19 839.342	140 000	2 779	-
Common wheat suitable for bread-making	564/77	15. 3.77	300 000	261 315.144	141 038.000	177 924	25 094	120 277.144
Common wheat suitable for bread-making	2255/77	11.10.77	200 000	199 999.000	149 196.998	185 000	27 600	50 802.002
TOTAL CEREALS			1 100 000	1 055 904.184	884 825.038	150 386	133 065	171 079.146

SALES AT LESS THAN LOCAL MARKET PRICES

1. Common wheat of bread-making quality
date : 24 February 1977
quantity awarded : 36 572 tonnes
average selling price : 5.45 % below the market price
2. Common wheat of bread-making quality
date : 6 April 1977
quantity awarded : 61 689 tonnes
average selling price : 7.97 % below the market price
3. Barley
date : 21 April 1977
quantity awarded : about 6 000 tonnes
average selling price : 19.35 % below the market price
4. Barley
date : 28 April 1977
quantity awarded : 66 372 tonnes
average selling price : 14.8 % below the market price
5. Common fodder wheat
date : 28 April 1977
quantity awarded : 3 342 tonnes
average selling price : 14.8 % below the market price
6. Common wheat of bread-making quality
date : 19 May 1977
quantity awarded : about 32 000 tonnes
average selling price : about 8 % below the market price
7. Common wheat of bread-making quality
date : 1 June 1977
quantity awarded : 51 852 tonnes
selling prices : about 11 % below the market price.

NOTE

The sales referred to in points 1, 2, 6 and 7 were covered by the same award decision; the average price obtained was Lit 155 127 per tonne. The price difference in percentage terms results from the rise in market prices between the dates of sales.

CHAPTER V

PRODUCTION REFUNDS

Until 1974 the production refund rate was calculated on the basis of the difference between a fixed supply price and the threshold price of the cereal in question. Since the threshold price rose at regular intervals, the refund rose accordingly. Between 1967 and 1974, the refund rate for maize almost doubled from 20.38 u.a./tonne to 39.45 u.a./tonne. On 1 August 1975, the fixed supply price system was replaced by a system of fixed refunds at a rate lower than those applied before that date. This new method explains why budget expenditure dropped from an average of 190 m EUA in 1973 and 1974 to an average of 84 m EUA in 1975-1978 (1) (see table on p. 26), i.e. only 32 % of intervention expenditure in that period.

SECTION I - RULES

A Products supported

The ninth recital of Council Regulation N° 2727/75, which replaces Council Regulation N° 120/67, states that "in view of the special market situation for cereal

(1) Including refunds for production of potato starch, rice starch and broken rice for brewing.

starch, potato starch and glucose produced by the 'direct hydrolysis' process, it may prove necessary to provide for a production refund of such a nature that the basic products used by this industry can be made available to it at a lower price than that resulting from the application of the system of levies and common prices". The Regulation therefore grants production refunds :

- for maize and common wheat used in the Community for the manufacture of starch,
- for potato starch,
- for maize groats and meal used in the Community for the manufacture of glucose by the "direct hydrolysis" process.

Council Regulation N° 2727/75 had discontinued production refunds for maize and common wheat used for the manufacture of quellmehl and for maize from which groats and meal used in brewing are manufactured. Following a judgment handed down by the Court of Justice of the European Communities, Council Regulation N° 1125/78 reintroduced temporarily a production refund for maize and common wheat used for the manufacture of quellmehl, but only where the quellmehl was to be used for bread-making, and for maize used for the manufacture of groats and meal used by the brewing industry.

Council Regulation N° 1665/77, amending Council Regulation N° 2742/75, ruled out production refunds for isoglucose, which can be extracted from starch.

B) The refund procedures

The starch industry has enjoyed FEOGA support since 1962. The production refund arrangements as such were introduced by Council Regulation N° 120/67, but the payment procedures have been changed several times.

From 1 July 1967 to 31 July 1968, the production refunds, in the absence of any special arrangements with regard to the payments, were generally paid to industries a posteriori, i.e. on the basis of declarations concerning the quantities of products processed.

On 1 August 1968, Commission Regulation N° 1058/68 provided for advance payment of the production refund for potato starch.

At the same time, Commission Regulation N° 1060/68 allowed manufacturers to claim an advance production refund, provided they produced proper evidence that the maize or common wheat eligible for aid was held by them in their premises or under official control and provided they put up a security of 105 % of the refund advanced.

This arrangement worked until 31 July 1974. From 1 August 1974 onwards, Commission Regulation N° 2012/74 provided that the payment of the production refund must be made by the competent agency appointed by the Member

States when the claimant produced proper evidence that the basic product had been placed under official supervision and when he declared himself prepared to provide, on request, all information necessary for such supervision.

Having been optional, this arrangement became compulsory.

C) Arrangements for the release of the deposit

Regulation N° 1060/68 authorized the release of the security only when the manufacturer had provided proper evidence that the cereals had been processed within 90 days following that of the payment of advance. If such evidence was not provided, the security was forfeit.

In addition, for maize processed into groats and meal for brewing, the security was released only when evidence had been provided of the sale of the relevant products to a brewery.

However, the way in which the evidence should be provided was not defined in the Regulation.

Regulation N° 2012/74 filled this gap. The security would be released only when the claimant produced proper evidence that at least 96 % of the quantity of the basic product had been processed within 90 days

following the date of the acceptance of the application for entry into official supervision.

For maize processed into groats and meal for the manufacture of beer or the manufacture of glucose by the "direct hydrolysis" process, the security was to be released only when the claimant had submitted an application accompanied by a copy of his invoice of sale to a brewery or to a glucose manufacturer using the direct hydrolysis process.

The Member States were required to check, by appropriate controls, that the products concerned had indeed been used for the purpose stated.

The Regulation also provided for compliance with certain quality conditions.

In addition, the Commission was to be notified of the control and analysis methods necessary for the implementation of the Regulation, and of any change in these methods.

Commission Regulation N° 2026/75 replaced Regulation N° 2012/74. As a result of Council Regulation N° 2727/75, certain items were deleted from the list of products eligible for refunds and the related control requirements ceased to apply. However, following the reintroduction of refunds for quellmehl for breadmaking and for groats and meal for brewing Commission Regulation N° 1570/78

reproduced the main control requirements of Regulation N° 2012/74.

In addition, since Regulation N° 1665/77 (amending Regulation N° 2742/75) prohibited any production refund for isoglucose, the Member States are required to verify the quantities of isoglucose manufactured, in order to recover, where appropriate, the corresponding production refund advanced in respect of the basis products used.

SECTION II - DIFFICULTIES IN APPLYING CONTROLS

Under the present arrangements, the Member States' controls must ensure :

- with regard to starches,
 - . that the processing of 96 % of the quantities of maize and common wheat placed under official supervision has indeed been carried out within ninety days following that of the acceptance of the application for supervision,
 - . that the refund is recovered in respect of any production of isoglucose ;
- with regard to groats, meal and quellmehl,
 - . that at least 96 % of the product has indeed been processed within ninety days,
 - . that the products for which a refund is applied for meet quality requirements or are in line with the

definition given in the Regulation,

- . that the groats and meal haven been delivered to a brewery, a glucose manufacturer using the direct hydrolysis process or a bakery.

A) Official supervision

1. Placing goods under official supervision

a) Start of supervision

The Regulations do not say when official supervision takes effect, nor the conditions to be fulfilled by the interested party. The only requirement is that 96 % of the consignment of the basic product must be processed within a maximum period of 90 days after the date of acceptance of the application for official supervision. It is not specified whether supervision starts at the time of acceptance, at the time of submission of the application or at any other time. Nor is it specified where the goods must be located when supervision starts.

So supervision may start before acceptance of the application, when the goods have not yet reached the processing plant.

However, some Member States delay supervision until the application has been accepted and the basic products are in specified silos at the plant. Others recognize the date of submission of the application or its entry in an official register, which may precede the unloading of the basic products.

These practices do not seem to take due account of the time and quantity limits for the processing of each consignment of basic product.

b) Quantity controls on entry

In one Member State, procedure is based on a concession system, which requires that the merchandise be stocked separately from other merchandise and which enables approved agencies to have it weighed. Control is, however by sample. In another Member State, the product is placed in a reserved silo which is supervised by officials of the intervention agency concerned. In a third Member State, the consignments are inspected prior to acceptance of the application. These practices enable each consignment to be separately identified, but at the beginning of the process.

In the other Member States, the entry into official supervision begins without inspection of the consignments at the beginning of the processing operation. However, in one of them, a number of the

processing firms are located in the ports and the merchandise is placed under the same supervision as that of inward processing traffic.

Stock accounts and documents are verified on the spot in all the Member States. In most of them, inspections are frequent (two to three times a month) ; in one case, however, the responsible agencies organize verifications only one a year.

2. Control of quality and processing

a) Control of quality

Disparities between Member States in determining the date of entry into official supervision are accentuated by disparities in the control of quality of the basic products.

The Community rules do not state explicitly whether the basic product eligible for a refund must meet any quality requirements. They specify only that 96 % of the maize placed under official supervision must be processed into starch within 90 days.

This rule is interpreted differently in the various Member States.

One group of States, and with them the Commission, takes the view that the product for which the advance refund has been paid must not contain more

than 4 % of broken grains and impurities in view of the fact that only whole grains can be processed into starch. This interpretation is logical because it would be distinctly wrong for the same refund to be paid on a product containing 20 % impurities and broken grains as on a product containing 2 %. This interpretation has fairly clearcut consequences. If the maize under official supervision, for which the refunds has been paid in advance, contains slightly more impurities and broken grains than the maximum 4 %, the security - which is 105 % of the advance - is withheld in a proportion equal to the difference between the amount constituted and the refund due. For instance, in the case of maize containing 4.1. % of impurities and broken grains, the processor will be penalized under this rule at a rate of 84.70 u.a./tonne of maize.

A second group of Member States interprets the rules very differently and considers that the 96 % criterion means simply that most of the product under supervision is to be processed within 90 days ; since the separation of impurities and broken grains from whole grains forms part of the processing stage, these Member States consider that there is no quality requirement in the rules, and that the same refund is due per tonne of maize processed, whatever the level of impurities and broken grain.

These differences in the application of the rules by the Member States distort the conditions of competition between processors and have repercussions on FEOGA expenditure. The Committee found that information with regard to the scope of the rules had not always circulated satisfactorily between the Commission and the Member States. For instance, when one Member State asked how the rules of 96 % and 90 days had to be applied, the Commission's answer was not sent to the other Member States as well.

b) Control of processing

The rules seem to require controls over the processing of each consignment of products under official supervision. In most cases, such control is impracticable because the main starch manufacturers work 24 hours round the clock and the maize quantities placed under supervision are not held separately but stored as and when they are delivered on the silos ; they are also used as and when needed for the various types of production.

The result is that :

- firstly, there is no way of establishing that any given consignment placed under supervision on any given day has been processed on a given date into a given product. In other words, the absolute link between a given quantity of basic

product placed under supervision and the product emerging from its processing cannot be properly verified ;

- secondly, there is no way of assessing the quantity of broken grains contained in each consignment of product used, since, in practice, the product is placed under supervision as soon as it arrives in the factory, i.e. before cleaning operations prior to processing. The weight of the broken grains, siftings and waste is determined only after separation and sale of the broken grains and does not refer to a given consignment placed under supervision, but to a group of consignments.

In practice, inspection is largely confined to the stores accounts. The actual use of the products placed under supervision can be verified as can, consequently, the justification for the granting of the production refund for all the quantities used during any given period, but this cannot be done consignment by consignment, as required by Regulation N° 1570/78, which cannot be applied here.

c) Difficulties when rates change

It is the rate of refund in force on the day of acceptance of the application which is paid to the manufacturer. When the rate is changed, however, it is the day of processing which is referred to for the application of the new rate.

As already indicated, the process is "continuous" and rate changes can lead to disagreements between the inspectors and the processors as to what amount of basic product had already been processed at a given day at 0 hours. Processing criteria also lead to differences of opinion.

3. Inspection of isoglucose production

The basic product for isoglucose production is not eligible for the refund and sums paid in advance must therefore be recovered. The amounts to be recovered vary according to whether maize starch, common wheat starch or maize groats and meal were used. Supervision of isoglucose production is an extremely complex matter, given the diversity of chemical processes used for the manufacture of this product, the lack of permanent monitoring and the variety of manufacturing techniques which make it impossible to relate the quantities of isoglucose produced to a given basic product. The amount to be recovered therefore has to be calculated by the method least favourable to the beneficiary.

In practice, recovery of the sums is based on a monthly return from the beneficiary enterprise verified on the basis of stock accounts and spot checks. There is no way of carrying out permanent physical inventories for such complicated production methods, which means that controls are founded on

the manufacturer's own records.

In one Member State, there are no control problems because the production cycle is under permanent supervision for domestic taxation purposes. Supervision is even easier in that particular country since the use of products which have already received a refund in order to produce isoglucose is prohibited.

B) Difficulties in connection with quality control and control of actual use

In addition to the difficulties described, there are difficulties arising in connection with the quality control and control of actual use of groats, meal and quellmehl.

1. Quality control

For practical reasons, the quality of all the quantities of the product obtained cannot be verified systematically and in these cases samples are taken, ensuring compliance with quality requirements only in respect of those quantities from which samples have been taken for analysis.

In some Member States, however, each consignment is analysed ; in another Member State the official agency responsible for inspection analyses the samples drawn by the brewery itself when it verifies

processing in this firm.

2. Control of actual use

As for checks of actual use, they not only require the establishment of extensive facilities, but are also hampered by serious legal and administrative problems where there is delivery to the brewery of another Member State, since the inspectors authorized in one Member State are not empowered to check on nationals of other countries.

The Committee has also been informed that in at least one Member State verification of the actual use of groats and meal in breweries is hampered by major practical difficulties because of the large number of breweries scattered throughout the country and also by a legal problem, since the brewers themselves are not direct beneficiaries of aid.

In another Member State, where beer production and the corresponding raw materials are under constant supervision for tax purposes, these control difficulties do not arise.

3. Recovery of aid

In addition to the control difficulties mentioned above the possibility of effective redress where the product is not used in accordance with the aid objectives is disputed in certain Member States.

In practice, the problem arises in cases where the product has been sold to its final purchaser and the security guaranteeing the processing and destination has been accordingly released.

Should the product then be used for other purposes, the aid unduly paid cannot always be recovered :

- it cannot be recovered from the final user (brewery) because he did not receive the aid directly and has no commitment towards the intervention agency ;
- it can hardly be recovered from the direct beneficiary of the aid because he fulfilled all his obligations by selling the product to a brewery and does not seem legally responsible for a misuse of which he is not the author, unless he can be held financially responsible. In a case similar to this, except that there was a clause providing for proper use of the product - butter for pastrymaking (1) - the European Court reasoned that the responsibility of the aid beneficiary should extend as far as a use of the product which was in accordance with the objectives of the aid scheme. It ruled that the security lodged by the successful tenderer for the butter should not be released until the butter is processed and used by the final user in accordance with official stipulations.

This reasoning could be applied to the case considered here, where the security is released.

(1) Cases 99/75 and 100/76 - Reports of Cases before the Court 1977, p. 861

However, the Committee feels that the safest solution would be to include in the Community rules either a clause making the beneficiary responsible for the use of the product, even after release of the security ; or one obliging the beneficiary to include a clause in the contract whereby the responsibility for use would devolve, where applicable, on successive purchasers.

SECTION III - RECOMMENDATIONS

A) The production refund system

The Committee appreciates the difficulties of applying the production refund system and the divergencies of interpretation of the rules between the Member States, the result of which is that the operators are threatened differently. The Committee considers this is mainly because the rules are not clear and because certain requirements governing the granting of the refund are difficult or impossible to apply in practice.

Technically speaking - without speculating as to the economic impact of such a change in the present system - the Committee believes that a return to the system of paying the refund a posteriori against proof of the quantities of products effectively processed (system applied in some Member States until 1968 and even 1974) could well overcome most of the present difficulties.

B) Recasting of the rules

If the advance payment system is maintained, the Committee feels that the present rules must be completely recast. In the first place, they should lay down quality criteria to be fulfilled by the basic product in order to be eligible for aid and also give a clear definition of what is meant by term "processing" ; the Committee also suggests considering a solution similar to the one adopted for oil seeds, where advances are paid on the basic products by reference to the standard quality.

The rules should also spell out the details for placing goods under supervision to ensure effective control of the processing stage and should amend the control arrangements to cope with continuous processing because control of individual consignments is not feasible.

The Committee recommends applying to the basic product the rate valid at the time of entry into supervision to avoid the discrepancies which would inevitably arise if rates are changed during the processing stage. However, if this were done, steps should be taken to forestall speculation at the time of the change, by suspending acceptance for supervision a few days previously.

C) Penalties for improper practice

The Committee finds that the arrangements for controlling final use of processed products differ considerably from one Member State to another ; it also finds that in some Member States legal problems hamper the penalization of improper use, and in such cases the recovery of aid paid. It recommends amending the rules either to provide in all cases - even after release of the security - for the recovery of the aid from the recipient where the use to which the products are actually put does not comply with the rules, or to stipulate that a clause must be included in sales contracts to the effect that responsibility would devolve on successive purchasers. In the Committee's view, the only way of safeguarding Community funds against improper use of the finished product by one of users is to adopt one or another of these solutions.

CHAPTER VI

AID FOR DURUM WHEAT

The annual cost of this policy averaged 98 m EUA between 1973 and 1978; variations around the average were slight despite a change in the method of allocation in 1976. Apparent fluctuations are mainly due to variations in payment deadlines (see table on page 26).

SECTION I - RULES

Before the change in 1976/77 (1) aid was granted on the basis of quantity produced and was given for all durum wheat harvested in the Community. This was unsatisfactory on several counts. As the aid was given for the quantity produced, with no reference to quality, increased production was encouraged to the detriment of quality. Farmers producing large quantities who already obtained an adequate income from their wheat received aid, but the amount was an insufficient incentive to produce wheat in areas where the yield was low. In addition, in areas where a large proportion of the harvest was consumed on the farm checking the quantity harvested was difficult.

(1) Council Regulation (EEC) No 1143/76 - OJ L 130 of 19.5.1976

This arrangement was replaced by a more selective one, the new rules being :

- aid given on the basis of the area sown and harvested;
- aid restricted to certain production zones;
- the wheat to have certain qualitative and technical characteristics guaranteeing its suitability for milling and processing into pasta. More precisely, Commission Regulation No 2835/77 stipulates that it must either :
 - . be of a quality such that the pasta made from it is not sticky when cooked or
 - . have been grown from seeds of certain varieties that the Member States can be sure are of this quality.

The new system was also intended to speed up calculation and payment of the aid.

The rules stipulate that producers must submit an application not later than 30 April each year for the coming marketing year (1 August - 31 July). The area sown, cadastral reference and seed variety must be indicated.

Member States are required to check the accuracy of at least 5 % of the applications and, more generally, to ensure that the product for which aid is requested meets the conditions laid down.

SECTION II - APPLICATION AND CHECKING DIFFICULTIES

A) Delays in adoption of regulations for individual years

Delays in the Council's approval of the year's prices affect durum wheat production more seriously than production of any other cereals because producers do not know how much aid they can expect, if any, which areas will qualify and what quality requirements will be laid down.

The geographical areas for which aid is given and the quality characteristics have been constantly changed since 1976. This has caused a number of practical difficulties. In one Member State, except for 1979/80, producers were unable to lodge their application until after the harvest, making any on-the-spot check of areas sown and the quality of the wheat harvested impossible.

B) Checks

Production and marketing conditions for durum wheat vary markedly from one production area to another and the difficulties involved in making adequate checks vary accordingly.

1. Checks on quantities

Before 1976/77 aid was given in respect of the quantities produced in the Community. In France there were no special difficulties here as practically all production is marketed and the collectors' accounts show the quantities received from the individual suppliers.

In Italy, on the other hand, the same checking methods could not be applied because of the scale of farmers' own consumption and the fact that the quantities actually collected are not properly known. The department responsible for paying the aid consequently made its checks from the statements of areas sown and quantities produced, these being compared with average yields recorded for each small production zone. This method carried the risk that, in the calculation of eligible quantities, any error in yield might combine with errors as to areas sown.

2. Checks on areas sown

From 1976/77 onwards aid in respect of quantities produced was replaced by aid in respect of areas sown and harvested.

In France, this meant a deterioration in the position. Before 1979/80 it was not possible to implement any system of direct checks on areas sown before the harvest.

The post-harvest check consisted in comparing by computer the areas declared by the producers for the year in question and those under durum wheat in the previous three years, calculated from the quantities harvested and collected and the average yields for each year.

Producers who had declared areas markedly higher than the "theoretical" areas cultivated previously were picked out by the computer for more thorough checking.

This check consisted in comparing the areas declared with the quantity already delivered to the collectors or still in store on the farm. If a discrepancy was revealed the declaration was automatically adjusted by the intervention agency.

This method of selection for checking cannot be considered entirely satisfactory. Only those producers whose area declarations are markedly higher than the areas previously under durum wheat are picked out by the computer. Producers whose declarations are comparable to those of previous years are in practice not checked in any way. This is particularly worrying as total areas devoted to durum wheat in France are declining. The agency responsible for administering the aid does however check that the aggregate area declared corresponds to that estimated statistically by the Ministry of Agriculture.

However, since applications for aid for 1979/80 were lodged before 30 April, on-the-spot checks could be carried out before the harvest in order to ascertain the areas sown and to establish whether the varieties declared matched those actually grown.

In Italy, a computer is used to compare the areas declared with those declared in previous years. Anomalous declarations are thoroughly checked out. A random selection is made from the other declarations for verification.

The areas declared by the producer are checked before the harvest by direct measurement and by comparison with the cadastral information annexed to the application. Although no instances of fraud have been found since the new system began the number of applications involved presents problems.

In certain regions of the two Member States concerned the areas sown vary from year to year for both technical (rotation of crops) and economic reasons (profit on durum wheat compared with other crops). The results of a checking exercise are not therefore valid for the following years.

In practice, on-the-spot checks can be made only during a fairly short period of about two months before harvesting and a large number of staff is required.

Areas cannot always be assessed from the cadastral register, as areas under durum wheat are merely classified as arable land. A single plot may be used for several crops simultaneously. In such cases direct measurement is the only answer.

Lastly and most important, penalties are inadequate. An incorrect declaration can result in a penalty only if fraudulent intent is proven, which is very difficult to do in practice. One of the Member States concerned has prepared a draft law under which detection of an irregularity would automatically entail an administrative penalty.

3. Checks on quality

a) Ambiguities in the rules

Under the old system the only quality condition was compatibility with the intervention criteria. Under the present rules, for aid to be granted two quality conditions must be met. The durum wheat must either :

- present qualitative and technical characteristics indicating that pasta made from it will not be sticky when cooked; or
- have been produced from seed of certain varieties that the Member States can be sure present these characteristics.

The Community rules make "not sticky when cooked" the only quality criterion and allow technical control to be waived for stable varieties of long standing which are known to possess this characteristic. The new high-yield varieties are not excluded but a check must be carried out in every case.

The lack of a Community list of varieties qualifying for aid and of a Community pasta-making test makes ambiguous interpretations possible, particularly where the new varieties are concerned. The "not sticky when cooked" rule, which it is left to the Member States to interpret, is also imprecise.

b) Checking methods

In Italy a list of varieties qualifying for aid has been adopted. Producers are obliged to indicate in their applications both the area sown and the varieties used and the variety check is made on the spot during the growing period at the same time as the check on area sown. Determination of the variety during the growing period is relatively quick and easy and a false declaration can be more adequately penalized as fraudulent intent is easier to prove.

In France no list of eligible varieties has been adopted nor is any pasta-making test used in the checks. Quality control in France poses special difficulties:

- up to 1979/80, on-the-spot checking of the varieties grown had to be ruled out as the producers made their declarations after the harvest - for the reasons already indicated;
- checks on variety or pasta-making quality at the moment of collection would hardly be realistic in view of the numbers of producers and collectors and the cost of the analyses. In addition, as regards pasta-making quality, the liability under criminal law of a particular producer could not be established since the quality may depend on weather conditions affecting the whole harvest. All the producers would therefore have to be checked and this is not practicable;

- a check on variety or pasta-making quality after entry into the collectors' stores would be easier but the major difficulty would then be that non-eligible batches could not be attributed to individual producers.

In practice the intervention agency responsible for the administration of the aid has made the quality checks by verifying that the wheat collected was in fact sold to meal factories by the collectors.

This approach is not entirely satisfactory :

- the fact that batches of wheat are sold to meal factories does not guarantee their intrinsic quality, as the meal manufacturers buy on the basis of the market prices for the different varieties and mix their purchases together;
- at the time of the checks part of the wheat collected will not have been resold and its final destination will not be known;
- lastly and most important, if it emerged from the checks that certain batches had a final destination other than milling this would have no practical effect as it would not be possible to determine the producers from which they came.

SECTION III - RECOMMENDATIONS

A) Restrictions on aid

The Committee finds that there are considerable management and control difficulties with regard to aid for durum wheat although it appreciates the social and economic importance of maintaining production of durum wheat in certain regions of the Community.

In view of the difficulties, it thinks that aid should perhaps be limited to those regions where because of natural conditions yields are low and the possibility of changing to other crops very limited.

B) Aid arrangements

Because of the different conditions obtaining in Italy and France, the aid systems based on quantity produced or on area sown may both present drawbacks in one country or the other. The Committee feels that, despite the inevitable difficulties in calculating equivalence between the two rates if aid, this situation could perhaps be taken into account by specifying in the Community rules that a choice may be made for each region between granting aid in respect of area sown and granting it in respect of quantity produced.

C) Control arrangements

1. Checks on area sown

If the solution outlined in B is not adopted and the system of aid based on area sown is maintained throughout the Community, the Committee recommends that direct area checks be instituted in all aided regions.

2. Checks on quality

The Committee notes that an attempt is being made to devise a Community pasta-making test and wishes to see this introduced rapidly. It recommends that as soon as the test is ready a list of the varieties qualifying for aid be drawn up, valid for the whole Community.

The Committee found that checking quality at the moment of collection was impracticable, that checking by analysis the stocks held by collectors did not permit the origin of defective batches to be identified, that checks on the final destination of the wheat - meal factories - presented the same disadvantage and that further it was impossible to strictly equate purchase by meal factories with suitability for pasta manufacture.

The Committee concludes that if the quality requirements are retained the only possible checking method will be on-the-spot checks during the growing period. It is only the varieties grown that can be checked in this way and a Community list of eligible varieties will first have to be adopted.

3. Penalties

The Committee would recommend that all Member States institute a system of sanctions that allows for the penalising of incorrect declarations without any reference to an intent to defraud.

D) Date of publication of the regulations

The Committee finds that the main particulars of the aid arrangement, i.e. the regions covered and the quality characteristics required, are known too late for producers to be able to make an economic choice in full awareness of the terms on which aid will be available.

It recommends, therefore, that the rules on aid should be made known to farmers a reasonable time in advance and even adopted to cover more than a single year.

CHAPTER VII

INTRA-COMMUNITY TRADE AND MONETARY

COMPENSATORY AMOUNTS

The only figure available for expenditure on monetary compensatory amounts is an aggregate one for all the sectors financed from the FEOGA Guarantee Fund. The total amounts in million EUA ¹ have been as follows since 1973 :

1973	133.4
1974	153.5
1975	335.6
1976	438.2
1977	989.2
1978	880.3

These figures are the balance of MCAs granted and levied in intra-Community trade and MCAs granted in trade with non-Community countries. MCAs levied on trade with non-Community countries accrue to the Community as "own resources". The amount of 880.3 million EUA for 1978 thus breaks down as follows :

¹ Figures converted into EUA to facilitate comparison.

Intra-Community trade :

	million EUA
Balance of MCAs granted/levied on importation (payments exceeded charges)	1 109.6
Balance of MCAs granted/levied on exportation (charges exceeded payments)	- 440.3
Net expenditure	<u>669.3</u>

External trade :

MCAs granted on exportation	98.4
MCAs granted on importation not cancelled out by levy	112.6
Net expenditure	<u>211.0</u>
Total net expenditure	<u><u>880.3</u></u>

Expenditure on MCAs is assessed at 809.2 million EUA for 1979 and 408.1 million EUA for 1980. The figures are lower because the green rates will diverge less from the central or market rates.

SECTION I - COMMUNITY RULES

The monetary compensatory amounts

As the common agricultural policy is based on the principles of common prices and Community financing of intervention expenditure a common denominator for all the Community currencies was chosen in the form of the unit of account. Agricultural prices were fixed in units of account, then converted into the currency of each Member State on the basis of the relationship between the currency and the unit of account.

Since the launching of the European monetary system the common prices have been expressed in ECU, the principles observed with regard to conversion remaining the same.

The difficulties of the current situation - with currency values fluctuating without equivalent modification of their parities - are surmounted by using monetary compensatory amounts.

1. Background

- a) Regulations Nos 653/68 and 1134/68, issued in the context of a fixed parity system, required Member States which changed the value of their currencies, i.e. declared a new parity to the IMF, to readjust their domestic prices paid to producers accordingly.

In theory, any Member State which revalued its currency had to reduce prices in its national currency and any Member State which devalued had to increase them.

It turned out to be impossible to act so vigorously without risking upsetting the economy of the country concerned. For this reason in 1969 when the French franc was devalued (8 August) monetary compensatory amounts were introduced. It was intended that these should be phased out as and when the price adjustments had been made, an object achieved in August 1971.

- b) In May 1971 a number of Member States switched to a system of floating exchange rates, which led to the adoption on 12 May 1971 of Regulation N° 974/71, introducing a system of variable monetary compensatory amounts.
- c) This development led to the introduction of a distinction between Member States which had undertaken to restrict to 2.25 % the maximum margin of fluctuation between the rate for the most appreciated currency and that for the most depreciated and those who continued to let their currencies float more freely.

For the first the monetary compensatory amounts were fixed and for the second remained variable. This system entered into force on 4 June 1973 (Regulation N° 509/73).

2. The present situation

The launching of the European monetary system (13 March 1979) aimed at stabilizing the Member States' currency exchange rates has permitted an increase in the number of Member States committing themselves to limit to 2.25 % the maximum margin of fluctuation between the rate for the most appreciated currency and that for the most depreciated.

Only Italy and the United Kingdom apply variable MCAs. Denmark and Ireland do not apply any. The Belgo-Luxembourg Union (BLEU) and the Netherlands, which have decided to maintain between their currencies the margins of fluctuation applying in May 1971, do not apply MCAs between themselves and are considered a single Member State for the purposes of the application of the MCA system in their trade with other Member States and non-Community countries. These MCAs are fixed, as are those charged/paid by the Federal Republic of Germany and France.

3. Operational principle

Under Council Regulation n° 974/71 ¹ a Member State the currency of which has appreciated with respect to its "green" rate (conversion rate used for implementation of CAP) levies MCAs on imports and grants them on exports in trade with Member States and non-Community countries. Conversely a Member State the currency of

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OJ N° L 106, 12.5.1971

which has depreciated vis-à-vis its green rate levies MCAs on exports and grants them on imports.

4. Calculation of MCAs

MCAs are calculated only in national currencies. For cereals they are the difference between the intervention price calculated using the conversion rate used for the CAP and the same intervention price calculated using either the central rate (for currencies tied to the 2.25 % rule) or a weekly average of market rates (for currencies floating freely).

5. Detailed rules for granting and levying MCAs

Under Article 8 of Commission Regulation n° 1380/75 laying down detailed rules for the application of monetary compensatory amounts, payment of the amount is, as with payment of a refund, dependent on production of certain evidence, in the case of exports evidence that the goods have left the geographical territory of the Member State and in the case of imports evidence that the import customs formalities have been completed and where appropriate that the goods have been used for the purposes specified.

The MCA is paid only on receipt of a written application from the person concerned which must, except in cases of force majeure, be submitted within six months from the

date of clearance through customs for export or import. Payment is normally made within two months from the day of receipt of all the relevant documents.

In the case of MCAs levied the amount is due for payment on the completion of customs formalities either on export or import. Since 1 January 1979 payment may be deferred at the request of the person concerned provided that he complies with the procedures laid down in the Directive on the postponement of the payment of import or export duties ¹.

6. Payment on behalf of another Member State

Under Article 2(a) of Regulation N° 974/71 when a product is exported from one Member State to another which will be obliged to grant an MCA for it the exporting Member State may in agreement with the importing Member State pay the MCA. In such cases no MCA is granted by the importing Member State on goods from the exporting Member State in question.

At present this arrangement applies to :

- products imported into the United Kingdom from a Member State other than Italy;
- products imported into Italy from other Member States.

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Council Directive N° 78/453 of 22 May 1978, OJ N° L 146, p. 19 of 2.6.78

SECTION II - OPERATIONAL DIFFICULTIES OF COMMUNITY TRANSIT
SYSTEM

A) Outline of system

Goods in free circulation within the Community (both goods originating in the Community and goods from non-member countries admitted to free circulation) circulate under the internal Community transit procedure (Document T2).

Three copies of these documents accompany the goods from the office of departure to the office of destination, which returns copy N°3 to the office of departure to permit the clearance of the Community transit operation.

Moreover, if the exporting Member State is paying the MCA on behalf of an importing Member State, the goods must also be accompanied by a T5 control copy, as well as the T2, giving the necessary information for calculating the MCAs and bearing a special stamp showing that the goods are intended to be released for consumption in the Member State of destination. After the goods have been released for consumption, this copy, bearing a special stamp, is returned to the Member State of export (office of departure or central agency) to permit payment of the MCA.

B) Date of stamping of T5s

In two Member States customs legislation allows, for intra-Community trade, import declarations to be submitted four days before the anticipated arrival of the goods. Delays of a month have, however, occurred between this declaration of intention and the actual importation. As a result certain T5s stamped by the importing Member State carry an import date before the date of departure of the goods.

In this connection the Court of Justice of the European Community ruled in its judgment in Case 113/78, given on 21 February 1979, that :

"the 'day of importation' within the meaning of Article 15 (1) of Regulation N° 120/67 of the Council of 13 June 1967 (basic cereals regulation replaced by Council Regulation N° 2727/75 of 29 October 1975 ¹) cannot be earlier than that on which the goods were brought to a place designated by the competent national authorities to enable them to make a real and effective customs inspection of the goods".

The Committee takes the view that the T5 documents should never be stamped before the goods have been cleared through customs for consumption.

C) Change of entries on form after return of T5

The Committee has also noticed cases in which

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OJ N° L 281, 1.1.1975

entries on the T5 - stamped and returned by the customs service of the importing Member State - were incorrect. In particular, the quantities noted on the document were not those recorded on unloading. Discrepancies were, however, reported to the customs of the Member States of origin only after a lapse of several months by the despatch of a discrepancy report. In some cases, information had not been passed on to the paying departments, so that sums wrongly paid out were not recovered.

D) Procedures

More generally, the Committee has noted that in isolated cases certain customs officers in the Member States have not familiarized themselves completely with Community transit procedures. One aim of the establishment of T1, T2, T2L and T3L transit documents - accompanying the goods - has been to provide for the successive customs offices through which the goods transit the same information on the nature and the customs status of the goods so as to enable them to adopt the same attitude with regard to these goods. The Committee has noted at least one case - see Annex II to this report, Case N° 6 - in which the transit documents of two Member States led the respective customs to adopt conflicting positions with regard to the same operation.

E) Incorrectly completed forms

The Commission has discovered that in certain cases :

- entries that should have been made on the control copy are lacking or are incorrect or incomplete;
- the control copy bears entries and annotations not provided for in the Community rules. As these entries and annotations are in another language they are likely to hold up release for consumption as the customs office quite rightly insists on their being translated;
- an imprecise entry is made by the customs office of release for consumption in the "Control as to use and/or destination" box of the control copy. This may mislead the paying agency if the particular entry specified in the Community rules is missing.

F) Other anomalies in the use of the T5 control copy

The Commission has found that in certain cases :

- the control copy, although indicated on the Community transit document accompanying the goods, was not presented when the customs formalities for release for consumption were carried out;

- a second control copy issued for national purposes accompanied the goods to the customs office of release for consumption, this office being confronted with two control copies for the same goods;
- a single control copy was used to serve as evidence for more than one operation, i.e. release for consumption and processing of the goods. When a particular processing operation is prescribed the operator concerned is usually allowed six months to carry it out, which delays return of the control copy as it cannot be stamped until the processing has taken place;
- a control copy was issued for goods to which no MCAs applied;
- goods intended to pass through a Member State were released for consumption there in the absence of the control copy, which had not been issued at the office of departure.

G) Procedures used for release for consumption and return of control copy

It has also been confirmed that there is no uniform procedure for the release for consumption of goods covered by a control copy. The Commission found three different practices in use at the customs offices visited :

- the declaration for release for consumption bears a reference to the control copy (number, date and issuing office);
- a photocopy of the control copy is attached to the declaration for release for consumption;
- the declaration for release for consumption bears no reference to presentation of the control copy.

Three practices for return of control copies to the issuing Member State were also found :

- they are simply handed to the declaring operator;
- they are sent once a week after particulars of each have been recorded;
- they are sent at roughly regular intervals.

SECTION III - IRREGULARITIES (see Annex II)

A) Incorrect declaration of tariff heading (see Case N°14 in Annex III)

Operators have been known to declare the wrong tariff heading in order to achieve a more favourable MCA rate. Thus, bread flour has been declared as infants' food or food for dietetic or culinary

use, or as manioc flour. Irregularities of this kind have been facilitated by the fact that the products concerned look much the same and can be properly distinguished only by laboratory analysis.

Sometimes not even laboratory analysis allows the origin of a product to be determined. Starch may easily be detected, but its origin (wheat or manioc) is difficult to establish, especially if there has been hydrothermal processing.

B) Smuggling (see Case N°7)

A lorry containing sacks of barley crossed the frontier between two Member States, and MCAs were granted. It then slipped back to the Member State of departure, avoiding the levying of MCAs, and appeared once more at the frontier to receive the MCAs a second time.

Fortunately, no MCAs were granted on the second presentation to customs, as the irregularity was discovered in time.

C) Mixing of feeding stuffs in order to qualify for MCAs
(see Case N° 11)

Uncertainties as to the right tariff classification may tempt a firm, where the difference between MCAs is larger than the cost of products added and additional processing, to mix products regardless of commercial

considerations, merely in order to qualify for a more favourable MCA. This can cost the Community a lot of money.

Thus there has been a case of exports of foodstuffs of an unusual composition qualifying for a high MCA rate. When the legislation was adjusted to eliminate the incentive, exports of the product dropped at once.

The operator sued for damages as he had been unable to complete his contract, but his suit was rejected by the Court of Justice ¹.

In another operation of this nature the operator needed merely to add a certain proportion of a very cheap product to another in order to qualify for a higher rate of MCA.

D) Rule of equity (see Case N° 4)

Where the currencies of the Member States are devalued or revalued, or the green parities are changed, the new MCA rates are immediately applicable to intra-Community trade operations or to trade with non-member countries. However, previous contracts may qualify for the old MCA rate if the firm can prove that it would suffer a loss if the new rates were applied. This rule - called

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Case 97/76 - Reports of Cases before the Court, 1977, p.1063

the rule of equity - was exploited by an exporter from one of the Member States the currency of which had just been devalued to avoid the MCA charge. This firm had concluded - before the devaluation - export contracts with a non-member country and with another Member State. These contracts having been concluded in the currency of the consignee countries, the operations should normally have been subject to charging of the new MCA. The firm applied for application of the equity rule, replacing the original contracts with fictive contracts denominated in its national currency.

This case shows that the equity rule entails major risks of fraud, that a very careful check must be made to ensure that the contracts and the loss suffered are genuine, and that the conditions under which this rule can be applied must be limited.

SECTION IV - SPECULATION

A) Speculative moments (see Case N° 15)

The following case involved "accession " compensatory amounts (ACAs). The procedures for granting and levying these amounts were similar to those described above for MCAs.

In 1975, when a system of advanced fixing of ACA rates applied in the Community, it was observed that a firm was operating between two new Member States in which the ACAs fixed in advance were high. After being

stored for a short time, the products were re-exported to a Member State of origin where the ACA levied was much lower.

At the time, the levelling-off rule was applied in respect of ACAs, stipulating that ACAs charged and granted by a Member State could not exceed import charges imposed by this Member State in respect of trade with non-member countries. The result of this rule was that ACA rates varied widely from one Member State to another whenever there were wide variations on the world market, such as those that occurred in 1975.

The firm had applied properly the Community regulations and taken advantage of the financial benefits accruing. This case is still being investigated.

B) Delays in introduction of MCAs¹ (see Case N°17)

Deflections of trade for speculative purposes may also be a result of a change in market conditions.

Thus the MCAs applying to trade in durum wheat were abolished in August 1974 because of the market situation. This then changed in such a way that from 1977 onwards several operators began to obtain regular profits by importing durum via one Member State and re-exporting it to another.

In order to understand the financial interest of these operations, it should be realized that the levy fixed

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See Court of Auditors' Report, p.32, OJ N° C313, 30.12.1978

in units of account does not reflect the actual parities after conversion into the currencies of the Member State. Parity is restored by the application of an MCA and of a monetary coefficient applied to the import levy.

MCAs on durum wheat were later reintroduced by the Commission.

C) Normal trade flows inhibited by MCAs

In exceptional circumstances it was considered necessary to send maize from one Member State to another for drying. The operation could not take place because the difference in weight on the return journey, which was inevitable because of the loss of moisture, did not allow the MCAs on the outward and return journeys to be balanced.

The MCAs are determined according to weight and not according to the quality of the merchandise. The result is unwarranted penalization whenever the drying is carried out in a country whose currency has appreciated. Conversely, firms in a country whose currency has depreciated may make unwarranted gains.

If such cases were to recur, some kind of solution would have to be found to the problem.

SECTION V - RECOMMENDATIONS

A) Improvement in the use of the T5 control copy

The Committee takes the view that it is of the greatest

importance that the T5 control copy be properly used as it is in effect a payment order for the beneficiary and thus has a direct impact on disbursement of funds under the CAP.

The Committee feels that the rules on the subject are so complex that those applying them need special training.

It notes that the Commission has undertaken both to inform and to educate the relevant customs services and private businessmen involved in the execution of export and transit procedures so as to achieve fuller understanding of the machinery for the use of the T5 copy and the financial role which it has.

The Committee recommends :

- that operators shall be given sufficient information to facilitate filling out the documents;
- that the control copy be returned only when the goods have actually been inspected so as to avoid recourse to the correction procedure;
- that the same T5 document should not be used for different control operations with regard to the same goods, so as not to lengthen the period elapsing before return of the document;
- that control copies should never be sent back directly to the declaring firm ¹.

¹This point is considered more fully in the following chapter.

B) Tariff classification and control difficulties

The Committee takes the view that the trade irregularities occurring are largely a function of the tariff classification of products and the MCAs applicable to them, certain very similar products being treated very differently as far as MCAs are concerned because of the way in which they are classified. The Committee wishes to stress the resulting danger of speculation and recommends establishment of a list of the products in question so that officials responsible for control will be aware of the risks to Community funds connected with trade in them.

CHAPTER VIII

TRADE WITH NON-MEMBER COUNTRIES

Cereals from non-member countries are subject, on entry into the Community, to a levy based on the difference between the world market price and the threshold price. Conversely, for exports, the difference between the world market price and the Community market price is covered by a "refund" granted to the exporter.

Expenditure on refunds (for basic cereals and first-stage processed products) accordingly varies sharply as a function of world market price. From 1973 to 1978 average expenditure was 423 EUA, with a low in 1974 (66.5 m EUA) and a high in 1978 (831.9 m EUA) (see the table on page 26). Expenditure rose sharply in 1978, and forecasts for 1979 point to a further increase (to 1 209.4 m EUA).

Revenue from agricultural levies on all products (1)
amount to the following in m EUA :

1973	438	1976	1.40
1974	280	1977	1.817
1975	534	1978	1.873
		1979	1.706 (budget forecast)

Revenue from cereals may be estimated as follows, in m EUA

1973	330	1976	790
1974	140	1977	1.360
1975	400	1978	1.400
		1979	1.280 (75% of the budget estimate)

SECTION I - SUMMARY OF REGULATIONS

The detailed rules for determining levies and refunds are dealt with in Annex III to this report.

A) Imports

The threshold price provides a reference for establishing Community protection with regard to imports from non-member countries.

In a normal period the protection mechanisms at the Community frontier consist in a variable levy expressed in ECU, the level of which is the difference between the price cif (cost, insurance, freight) and the threshold price.

(1) - The Member States do not give a breakdown in their returns. Estimates based on the volume of imports from outside the Community suggest that the cereals account for some 75% of total levy revenue (in normal years).

The Community concedes a lower levy to certain non-member countries under bilateral or multilateral agreements.

The levy for the basic products is calculated daily.

B) Exports

The difference between world market prices, assessed by the Commission staff and the Community prices may be made up by export refunds, so that Community products coming under the common organization of the market in cereals can in fact be exported.

1. Rates

The rate of the refunds payable on the various products is studied weekly and, if appropriate, altered by Commission Regulation adopted after consultation of the Management Committee. There is a uniform rate of refund throughout the Community.

The rate of refund may vary according to the destination or intended use of the product.

For barley and common wheat, rates may be fixed by tendering procedure. Only a certain number of tenders are accepted by the Management Committee and tenderers are required, if their tender is accepted, to export the quantity specified in their tender. They receive the rates of refund which they have proposed in their tenders.

2. Detailed rules for granting refunds

Refunds are granted subject to production of two types of evidence :

- evidence that the goods have actually left the Community,
- in certain cases, evidence of import into a non-member country.

a) Proof of export

Commission Regulation (EEC) n° 192/75 (1) laying down detailed rules for the payment of export refunds in respect of agricultural products requires products cleared through customs for export have left the Community unaltered not later than 45 days after clearance (1).

In certain special cases (supplies for victualling vessels and aircraft within the Community and supplies for international organizations and foreign armed forces) the product must have reached its destination unaltered within 45 days.

A product may be cleared for export from one Member State and then cross Community territory other than that of that Member State before actually leaving the Community or reaching its destination. In this case the evidence to be provided to obtain payment of the refund is the T5 control copy (see Chap. VII).

b) Evidence of import into a non-member country

Such evidence is required :

(1) OJ N° L 25, 31.1.1975.

(2) - Products consigned to territories which, although they are part of the geographical territory of a Member State, are included in the customs territory of a non-member country are deemed to have left the Community; on the other hand, products sent to territories which, although they are part of the geographical territory of a non-member country, are included within the Community's customs territory are deemed not to have left the Community;

- The commune of Livigno is deemed not to be part of the geographical territory of the Community.

- when the rate of the refund varies according to the intended use or destination,
- when there is serious doubt as to the intended use or destination of the product, or
- when the product might be reintroduced into the Community because of the difference between the rate of the refund on the exported product and the import charge applicable to identical products on the day of clearance for export.

SECTION II - DIFFICULTIES IN IMPLEMENTATION

A. Supporting evidence required before refunds can be granted

Foreign trade transactions often involve several departments and in particular the customs department in one or more different Member States as well as the paying body in one Member State.

Payment of any refund is subject in the first instance to the condition that the goods must actually have left the Community.

The documents supporting the transactions carried out are, depending on the case, forwarded between the departments concerned through administrative channels or directly returned to the operators.

Two cases are clearly distinguished :

- goods cleared for export in one Member State cross the territory of other Member States before leaving the Community. The proof of exit referred to above is provided by the document, which is sent through administrative channels by the customs office of exit to the customs office of departure or to a central body in the Member

State of departure. Where the customs office receives the document, it gives the document to the operator to enable him to apply for payment of the refund or sends it through administrative channels to the paying agency, in which case the endorsed document never comes into the possession of the beneficiary;

- where the goods are exported to a non-member country without passing through the territory of another Member State, the export declaration stating that the goods have left the Community is either :
 - . passed directly to the operator, who presents it himself to obtain payment of the refund, or
 - . sent through administrative channels to the paying agency.

These procedures, necessarily involving the operator at one time or another, can make fraud easier. The Committee feels that when a document which has been officially endorsed (for example, by the customs) is put forward by the operator in support of a payment claim to another agency (intervention agency, for example), which may be in another Member State, it should be possible to compare the details given on the document simply and rapidly with the information at the disposal of the department which endorsed the document.

The rules as they now stand require the paying body, customs office or other department concerned to send the document to the issuing authority for verification in case of doubt. The Committee feels that this procedure allows too great a degree of subjectivity and for this reason is unsound (1). Exhaustive checking, which would have to be computerised, would considerably diminish the risk of wrong Community payments.

(1) These comments also apply to intra-Community trade.

B) Differentiated refunds

In cases where the rate of refund varies according to destination or intended use of the product exported, Article 11 of Regulation n° 192/75 stipulates that evidence must be provided that the products have been cleared through customs for release for home use in the non-member country concerned. Proof of this is provided by the transport document and the customs document or, failing that, by certain documents accepted in lieu. The refund claim must be lodged within six months.

Some non-member countries do not issue customs papers which mention specifically that the goods have been cleared for home use. Exporters then have to use documents accepted in lieu in particular certificates issued by supervisory companies. These companies must, under Commission Regulation (EEC) n° 192/75, be approved by the Member State in which the goods were cleared through customs for export. However, there is no Community list for operators giving all the firms approved by all Member States. The Regulations covering documents accepted in lieu to furnish proof of clearance through customs have been altered several times to take account of the difficulties with which the Member States were confronted :

- the list of documents which can be accepted as proof of unloading of the product of the non-member country of destination has been extended;
- the competent authorities of the Member States have been given wider authority to exempt operators from producing the proof normally required, with the exception of the transport document.

An ad hoc expert group is also working on all the problems concerned with trade and particularly the problem of proof of arrival at destination.

The Committee feels that this proliferation of forms of proof makes control difficult.

C. IMPROPER EXPORT OPERATIONS

Council Regulation n° 166/64 on the system applicable to certain classes of compound animal feedingstuffs provided for levies and refunds for goods containing products subject to the common organization of the market in cereals. Among these products was manioc meal.

During the 1964/65 marketing year an exporter exported a mixture to non-member countries 98% of which was made up of products not subject to the organization of the market and 2% of which was manioc meal. At this destination the mixture was broken down and its main components, with the exception of the manioc meal, were reimported into the Community.

The firm maintained that the full refund should be paid if a compound feedingstuff contains one component which is subject to Community rules, no matter what the quantity of this is.

The Court of Justice of the European Communities did not accept this argument (1). It inferred from the recitals of Council Regulation n° 166/64 that the purpose of the export refund is to compensate for the effect on the price of compound feedingstuffs of the rules applicable to the components. It follows that the refund should be in proportion to the quantity in the mixture of the raw materials subject to the organization of the market.

This does not mean that the Council and the Commission may not use approximate and flat-rate methods of calculation, but the rules must "in no case be extended to cover abusive practices of an exporter" (paragraph n° 21 in the Court's judgment).

(1) Case 125/76, judgment given on 11 October 1977.
Reports of Cases before the Court 1977, p. 1593.

Since this time the Community has forged more sophisticated tools to combat abuse of the rules. The flat rates, however, must be used with caution. They may still provide exporters with unjustifiable profits in certain cases.

SECTION III - IRREGULARITIES (See Annex II to this report)

A) False descriptions (see case 13 in Annex II)

There have been cases where the contents of cereal products, which govern the granting of the refund, have been falsely described.

Certain products, such as maize starch, do not rank as cereal products in the refunds nomenclature.

There has been a case of an exporter obtaining a refund for a product which contained maize starch by indicating instead a similar quality of cereal meal, which is indeed classed as a cereal product.

Only a subsequent check carried out on the firm's premises in connection with the verification of other export transactions brought the irregularity to light.

The physical controls made during customs clearance are still hampered by similar difficulties, since products eligible for refunds often closely resemble products that are not, and the difference can be detected only by chemical analysis.

B) Plant which interferes with control (see case 8)

Cunning contrivances can sometimes invalidate the procedure of taking samples.

One merchant had incorporated into the silo automatic sampling machines fed with first-category barley eligible for a refund, while the silo itself contained barley that was not eligible for refund. Thus an analysis of the sample taken at the factory showed that the barley was first category while the analysis made on customs clearance proved that the barley was not eligible for a refund.

As refunds are granted only for products which are actually exported and which qualify for refunds on account of their type and characteristics, it is essential that the goods analysed are the same as those exported. This would be the case if the samples from the lot in question were taken by the appropriate customs department at the time of export clearance. It is much more difficult to establish whether samples taken at any time within the undertaking following a production check actually come from the lot intended for export.

C) Deflection of trade (see case 5)

A consignment of flour was cleared through customs in Member State A for export to a non-member country. After the goods were loaded, the consignor found out that the purchaser's representative had had a bill of lading drawn up giving Member State B as destination. The object of the operation was to obtain a refund for non-member countries and to re-sell the goods at Community prices.

The consignor made a complaint and informed the customs of Member State A, who in turn notified their colleagues in Member State B. As a result of this, the perpetrators of the fraud rerouted the vessel to a non-member country other than the originally intended.

This irregularity highlighted the importance of cooperation between judicial and customs authorities and between the customs authorities of two Member States under mutual administrative assistance arrangements.

SECTION IV - RECOMMENDATIONS

A) Difficulties in implementation

1. Controlling documents which do not circulate through administrative channels

The Committee finds that documents which represent payment orders by the Community are handed to the payer for cashing. It feels that this procedure involves substantial risk for Community funds.

As the strictest safeguards should be provided in respect of payments, the exporter should, as far as possible, be excluded from the refund payment system. If this is found impossible to implement, systematic controls should be carried out and this should be done rapidly so that all risk of fraud is eliminated. A system of this kind can only be established by using a computer network covering the various departments of all the Member States. Data processing systems have been developed in most Member States but they are often not compatible with one another. For this reason the Council decided to carry out a study of the data processing systems (CADDIA system, see Annex IV to this report).

2. Checking destination in the case of differentiated refunds

The Committee is aware of the difficulties encountered by exporters in obtaining the necessary documents to prove

release for home use of foods in a non-member country.

It nevertheless stresses that the documents required entail an undertaking by the Community to pay and that it is accordingly desirable for the Community authorities to have statements by the official departments of non-member countries to the effect that the operations are in order.

In cases where such evidence is not available, the Committee recommends that the greatest care be taken in assessing the minimum requirements for proof equivalent to the customs document. It recommends, in particular, that a list should be drawn up of all the control and supervisory firms approved by the Member States.

3. Improper export operations

The Committee has found that the flat-rate approach to calculating refunds for compound feeding stuffs can lead to improper operations by exporters. The Member States may encounter difficulties in running a system based on the actual composition of the products. The line of argument adopted by the Court of Justice in Case 125/76 referred to above indicates that, where the conditions laid down in the text of the Regulations are met, account should be taken of whether the operation for which the payment is requested will allow the achievement of the economic aim for which the subsidy was granted. The criterion "improper operations" thus provides a yardstick whereby the Community's financial interests can be defended effectively.

B) Combating irregularities

1. Application of control methods

Cross-checking enables irregularities to be detected more successfully than does a single control system. It is aware that the Member States' authorities do not have the staff or funds to carry out repeated verifications. It feels that control carried out at the time of export is still of value but recommends stepping up manufacturing controls within the meaning of the Directive of 27 June 1977 on controls on operations financed from the Guarantee Section of the EAGGF (1).

In this respect, Article 9 of the Directive states that "The Member States and the Commission shall regularly review the application of this Directive". An exchange of views of this kind could, include the establishment of a single list of "sensitive products" so that investigation could be directed more towards the fields in which the financial risk for the Community is greatest.

2. Cooperation between customs departments and the investigation departments in the Member States

The Committee emphasizes the value of mutual customs assistance in detecting irregularities and providing evidence of irregular activities on the part of operators.

The Committee recommends that cooperation between the departments of the various Member States should be stepped up.

(1) Council Directive n° 77/435, OJ N° L 172, 12.7.1977, p. 17.

CHAPTER IX

DIFFICULTIES PECULIAR TO PROCESSED PRODUCTS

This chapter is devoted to products of first-stage processing, such as flour, which come under the common organization of the cereals market, and to products not listed in Annex II which also constitute processed agricultural substances but which are not covered by common organizations and in respect of which it was necessary to devise a system maintaining equality of competition between operators working outside the Community and operators working inside the Community.

Expenditure relating to export refunds on products of first-stage processing is included in that for basic cereal products (see Chapter VIII). Thus, only estimates of costs are available. Expenditure for 1979 is expected to total 375 million EUA.

Expenditure in respect of export refunds on products not listed in Annex II is as follows (1) :

1973	23.9 MEUA	1976	67.0 MEUA
1974	13.7 MEUA	1977	136.3 MEUA
1975	23.9 MEUA	1978	208.5 MEUA

(1) The amounts have been converted into EUA in order to facilitate comparison.

The refunds cover basic products other than cereals contained in non-Annex II products, such as milk and sugar.

In 1974 expenditure on refunds paid in respect of incorporated cereals was about 1 million EUA, and in 1977 and 1978 about 50 million EUA and 52 million EUA respectively.

The import levies do not yield as much as the refunds cost, since the Community is a net exporter of processed products.

SECTION I - RULES

A. Import charges

1. Products of first-stage processing

The levy consists of two components :

- a fixed component, charged ad valorem at a level meeting the need to protect the processing industry in the community ;
- a variable component, determined partly by the average levy (calculated on the basis of the first 25 days of the month preceding the month for which the levy is to be fixed) on the basic products making up the processed product and partly by the application of the standard coefficient reflecting the composition of the processed product.

2. Products not listed in Annex II

The charge provided for in the common customs tariff consists of :

- and ad valorem duty, which constitutes the fixed component of this charge,
- a variable component intended to account for the difference between prices in the Community and import prices. For each product, the variable component is fixed by the Commission for quarterly periods beginning on 1 February, 1 May, 1 August and 1 November. The variable component is calculated on the basis of the difference, determined in respect of the quantity of each of the basic products to be taken into consideration, between :
 - . the average of the threshold prices fixed for each of the three months of the quarter in respect of which the variable component is fixed, and
 - . the average of the cif prices or the free-at-frontier prices (as the case may be) referred to for the purpose of fixing the levies applicable to each of the relevant basic products, calculated over a period comprising the first ten days of the month preceding the quarter in respect of which the variable component is fixed and the two months immediately preceding this month.

B. Export refunds

1. Refunds on products of first-stage processing (obtained generally from one basic product)

The refund is based normally on the average of the levies of the first 25 days of the preceding month multiplied by a coefficient which reflects the quantity of the processed product. However, the refund calculated in

this way can be adjusted in relation with other criteria.

Special cases : flour and malt

The refund for flour is determined directly according to the world price for this product and not according to the average levy on common wheat multiplied by a standard coefficient.

In the case of malt, a standard coefficient is used but the basis of calculation is not the average of the barley levies for the first 25 days of the preceding months, but a weekly average of the levies less the difference between the threshold price and an average market price within the Community.

2. Refunds on products not listed in Annex II

A refund rate is fixed for each month per 100 kg of basic product taking into account the conditions as regards supplies of these products and the need to ensure equal conditions of competition in relation to the inward processing system. The quantity of each of the basic products to be referred to for the calculation of the amount of the refund is determined according to the quantity actually used in the processed product.

However, for certain products (e.g. pasta) the quantity of the basic product is determined on a standard basis.

SECTION II - CONTROL SYSTEM

Article 8 of Council Regulation N° 2682/72, relating

to products not listed in Annex II, provides for the organization of controls in the Member States and requires the latter and the Commission to keep each other informed on a reciprocal basis. However, this procedure does not enable the Commission staff and the Member States to obtain information on the control arrangements in an entirely satisfactory manner. Each state has tended to use the control facilities it already possessed, some relying more on chemical analysis, others more on control of production. And the frequency of controls is by no means the same in each State. It should be pointed out that Article 8 applies only to export refunds - import controls or controls relating to the application of the MCAs are not covered by specific legislation. This is also true for products of first-stage processing, for which there is also no special legislation concerning controls.

The Committee is concerned here only with physical controls of processed products. The administrative difficulties common to all products were examined in Chapters VII and VIII on trade in general.

A. Difficulties of interpretation of the customs classification

Because of the complex composition of some products, tariff classifications may vary from one Member State to another. The amounts charged or granted on very similar products may be very different according to the heading under which they are classified. For instance crispbreads (biscottes) are classified under the heading "fine bakers' wares" in one Member State and "ordinary bakers' wares" in two others.

This makes them eligible for different MCA rates with significant consequences on trade in these products between Member States.

This difference is based on the interpretation of the legislation applied strictly in one Member State while in others various ingredients added in small proportions (about 5%) are not included. This difference is further strengthened by differences in control facilities available to Member States. In respect of imports, all the authorities can do is carry out a chemical analysis a posteriori, while in the Member States of origin the customs services can of course inspect the manufacturer's premises and verify the quantities of products actually used.

B. Different results of the chemical analysis

Moreover, the chemical analysis carried out in the various Member States can give results which sometimes differ enough to warrant differing classification of the same product, thus entailing differing payments or charges.

C. Difficulties in determining the origin of some ingredients

The composition of a processed product can very often be determined by chemical analysis, but it is more difficult to determine the origin of the ingredients yet the rate of the refund or the MCA applicable to an ingredient may vary according to origin.

For instance, sorbitol may be produced from

starch products or sugar. The raw material - sucrose or starch- may be identified by scientific methods which detect the quantity of residue of certain sugars. But in practice, however, for technical and commercial reasons, sorbitols based on sucrose and sorbitols based on starch are mixed. There are no analytical methods whereby the respective proportions of two products in such mixtures can be ascertained. Operators using both maize and sugar in their factories have a strong incentive to make out false declarations in order to obtain the highest refund.

Likewise the starch contained in many processed products may be cereal starch or manioc starch. The origin of the starch can be determined when it has not undergone hydrothermal treatment, but chemical analysis can no longer do this after such treatment.

D. Practical difficulties of control

The example given in the preceding paragraph concerne cases where analysis carried out at the time of exportation does not enable the basic products incorporated into the processed product to be determined. Much more frequent are the cases where the analysis clearly determines the basic products used and the quantities present in the processed quantities but not the quantities employed during the manufacturing procedure, which alone must serve as the basis for calculation of the refunds. In order to be effective, control must be carried out at the places of manufacture and must cover production techniques, the stores accounts and the trading accounts. The Committee found that checks of this type, which call for a large, properly trained staff, were not frequent enough as a rule.

SECTION III - DETERMINATION OF MONETARY COMPENSATORY AMOUNTS

A. The MCAs on processed products

The MCAs applicable to processed products are calculated as a rule in the same way as the variable component of the import levy, on the basis of a standard composition of the processed product. Where several processed products can be obtained at the same time from a single basic product, the levy applicable to the main processed product is generally calculated in such a way as to reflect the entire levy applicable to the basic product. The other sub-products are subject to separate levies. It follows that the total of the levies applicable to the main processed product and the subproducts is higher than the levy applicable to the basic product which was used to make them.

Applied to MCAs, which are either levied or granted, this method of calculation can in certain cases give rise to unequal competition between undertakings in the various Member States or even generate artificial trade flows.

It is true that the effects of the method of calculating the MCAs on trade are difficult to assess because other factors come into play. It is also difficult to work out how trade would have developed without them.

The fact remains that, for certain processed products, the financial neutrality which should enable the impact of the MCAs applied to the basic products to be offset exactly is not in fact achieved.

B. Calculation examples

The Committee has chosen to illustrate these inequalities by two examples - pasta products (products not listed in Annex II) and derived maize products - in respect of which the effects differ in Member States with depreciated currencies and Member States with appreciated currencies.

1. Pasta products

If imports of durum wheat attract an MCA of 100, the MCAs on reexported processed products are 113.3, of which 93.2 is for pasta alone. In other words, the operator in an appreciated currency country must pay a levy of 100 on entry but can claim 113.3 on export, of which 93.2 if he decides to export pasta products only.

An operator in a depreciated currency country must pay 113.3 on exportation of which 93.2 for pasta products, while he received only 100 on importation.

In trade between Member States with currencies which have appreciated or depreciated in relation to the green rates, the advantage of one operator and the disadvantage of another are combined - for the durum wheat the two effects represent 26.6% of the MCA.

2. Derived maize products

The Committee learned of the following case (1) :

a firm in a depreciated-currency Member State exported hulled maize (tariff heading 11.02 B II c) to a neighbouring appreciated-currency Member State for processing in its

(1) See Case N° 16 in Annexe II to this report.

subsidiary. All the processed products were re-exported to the original Member State. The charging and the granting of the MCA left a positive balance of 60%. This operation involved a quantity of 10.000 tonnes during the 1977/78 marketing year.

The parent firm stated that it was obliged to process its maize in its subsidiary in the neighbouring Member State in order to be able to withstand competition from meal manufacturers in that Member State.

Since that time the operation has become a little less profitable as the adjustment of the MCA's (†) has brought the margin down to 44%.

SECTION IV - RECOMMENDATIONS

A. Difficulties of control

Difficulties arise mainly from the differences in the results of the analysis or the impossibility of determining the actual composition of a product. There is thus a danger that operators handling the relevant products will fill out false declarations in order to maximize the refund or obtain the most favourable MCA.

These disadvantages would be partly eliminated if the manufacture of these products was supervised. The Committee thus recommends that a list of "sensitive products" should be drawn up and that on-the-spot controls

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- (2) Commission Regulation EEC N° 1994/78 - OJ N° L 230, 22.8.1978
for products not listed in Annex II.
Commission Regulation EEC N° 746/79, OJ N° L 95, 16.4.1979
for starch products.

of the stores accounts of these products and the general accounts should be intensified in the spirit of the Directive of 27 June 1977 relating to the control of operations financed by the FEOGA Guarantee Section (1).

It is also desirable that the results of this control should serve as a reference in the event of disputes between the customs of the various Member States. The Committee recommends here that an efficient Community procedure should be introduced to prevent the differing tariff classification of products subject to intra-Community trade.

B. MCA rates

The use of standard rates for the calculation of the MCAs of processed products gives rise to not inconsiderable differences of treatment in some cases between traders in different Member States. It is aware of the difficulties encountered by Commission staff in efforts to remedy the disadvantages arising when MCAs are paid or charged on the basis of standard proportions. Consequently, it recommends that the MCA rates for processed products should be re-examined case by case in order to eliminate the most obvious inequalities.

(1) Council Directive 77/435 - OJ L 172, 12.7.1977, p. 17.

CONCLUSIONS AND FINAL RECOMMENDATIONS

In the introduction to this report the Committee referred to the conclusions and recommendations contained in its earlier reports on milk products, oil seeds and olive oil, beef and veal, and wine.

In the subsequent chapters the Committee has accompanied its analyses of the various problems by appropriate recommendations to the Commission.

To conclude its report, the main general conclusions reached by the Committee as a result of its investigation of the cereals sector have been grouped under two principal headings :

- a summary of the economic situation
- recommendations for the improvement of Community rules.

SECTION I - SUMMARY OF THE ECONOMIC SITUATION

The cereal sector has been moving towards an overall surplus situation : the consumption of fodder grains has lost ground to the consumption of substitutes, most of which are imported, especially manioc. At the same time, production has been steadily increasing because of better yields due to technical progress and the replacement of spring cereals by more productive winter cereals.

This trend is particularly disturbing because the maize shortage is still severe while wheat and barley surpluses continue to mount. The new price system set up in 1976 (silo system) was intended to bring about the replacement of the scarcer cereals used for feeding animals - i.e. maize - by cereals in surplus supply.

The scheme has been only partly successful because of the growing use of substitute products, usually preferred to cereals of which there were already surpluses while maize consumption has failed to contract. The substitute products are attractive to farmers because, in terms of nutritional value, they are cheaper than maize, barley and common wheat.

A corollary of this economic disequilibrium is an ever-heavier financial burden for FEOGA. Exports of increasing surpluses of common wheat and barley involve expenditure in the form of refunds, the volume of which has tripled in three years and in 1979 accounts for 1.209,4 million EUA of budget appropriations, or nearly 77 % of expenditure in the cereals sector and 11, 6 % of total FEOGA guarantee expenditure.

SECTION II - RECOMMENDATIONS FOR THE IMPROVEMENT OF COMMUNITY
RULES

In formulating its recommendations on completing this inquiry, the Committee has concentrated mainly on points connected with requirements in the present rules, but has also considered how the Member States apply the rules and ensure that they have been properly complied with.

A) Improvement of the rules

1. Reconsideration of certain intervention measures

The Commission recommends that certain measures be reconsidered in respect of their economic implications, their cost and the major difficulties they involve with regard to controls.

In this connection, the Committee has noted that some Member States are holding very large intervention stocks while others could offer outlets for them. Such surpluses are maintained at considerable cost to FEOGA.

In some marketing years aid for private storage is paid virtually without stipulations as to the duration of storage; this is liable to nullify the potential economic advantages of such operations, the principle of which is to withdraw from the market certain quantities of cereals under contract for specific periods in order to relieve the market.

Transfers between intervention agencies should be confined to exceptional circumstances because the Committee takes the view that the common organization must ensure normal operation of the market.

The Committee is aware of the social and economic case for maintaining durum wheat production in some areas of the Community but feels that the aid scheme should perhaps be confined to regions where natural conditions make for low yields and it is difficult or impossible for farmers to grow other crops.

2. Improvement of the rules

The Committee feels that the rules should be simplified wherever possible, that certain ambiguities should be removed and that certain distortions should be corrected to avoid giving unwarranted financial benefit.

a) Simplification of the rules

- Codification of the rules on the use of the T5 transit document.

Document T5 represents an undertaking on the part of the authorities that payment will be made as soon as the operations described on the document are certified as having been checked. Since the document is used for the control of some 35 different operations, the Committee recommends codifying the rules. If that proves too difficult in practice

then a compendium of the regulations involving the use of the T5 can be drawn up.

- Grouping of tariff headings

The Committee recommends grouping together tariff headings for processed products the composition of which is similar, to avoid the difficulties inherent in controls and financial risks for FEOGA.

- Discontinuation of technical distinctions which are difficult to check

Efforts should be made to avoid introducing into the rules distinctions based on the specific properties or presentation of products eligible for compensation if it is virtually impossible in practice to distinguish them, or if the rules do not spell out precise criteria to distinguish between the various forms or presentations.

The Council recently¹ applied this principle in the case of carry-over payments, for which the implementing procedures no longer make any distinction between common wheat of bread-making quality and other common wheat.

¹ Council Regulation (EEC) No 946/79 of 8 May 1979 fixing a carry-over payment for common wheat, rye and maize remaining in stock at the end of the 1978/79 marketing year
(OJ L 120, 16 May 1979)

b) Resolution of vague or ambiguous points

The Committee has noticed some major problems caused by vagueness in the rules on specific points some of which actually determine the award or refusal of a payment. As a result of vague wordings, the Member States have adopted differing implementing procedures for a single set of rules, this giving rise to differences in the treatment of beneficiaries in the various Member States.

For instance, the procedures for granting the carry-over payment for cereals during transit should be standardized, particularly as regards the crossing of frontiers around the date of eligibility.

The rules for implementing production refunds should lay down quality criteria for the eligible basic product, procedures for ensuring supervision of products and the general control procedures to be fulfilled before the refund is granted.

Similarly, something should be done to clarify and issue in good time the implementing rules concerning aid to durum wheat. A pasta-making test should be adopted at Community level, together with a list of eligible varieties region by region, giving reliable guidance with regard to quality.

c) Adjustment of the rate of monetary compensatory amounts

The MCAs charged or paid on processed products do not always correspond to those charged or paid on their basic ingredients. Despite improvements effected, the fact that some MCAs are not neutral is a handicap for the firms of certain Member States and leads to distortions of competition between Community firms. The most noteworthy cases include that of products derived from maize and that of pasta products.

The Committee recommends that special study be given to determine economic implications of measures at present in force and that the faults seen to be present should be corrected.

B) Improvement of implementation of the rules and controls by the Member States

There have been persistent inadequacies in the implementation of the rules by the Member States and considerable divergencies in the prevention of infringements.

1. Use of the T5 control copy

There is evidence of inadequate use of transit documents or wrong entries on these documents. The Committee wishes to renew the recommendation made in previous

reports that the training of officials using customs documents should be stepped up. Some efforts have already been made in this direction through the organization of training seminars for national inspectors. The Committee hopes that the Commission will continue work along these lines.

On a more fundamental point, the Committee notes that once the T5 documents have received the certificates necessary for the granting of a refund or compensatory amounts, they are sometimes transmitted outside administrative channels during part of the procedure, which varies between Member States. The Committee feels that the beneficiary should not in many circumstances be involved in the returning of the T5, because of the grave risk of fraud. In any case it recommends that a document issued by an official department (customs, for example), presented by the operator to another agency (intervention office, for example) as evidence for the obtaining of the payment should be checkable easily and without delay by the paying agency against the information held by the department which had issued the document.

2. Coordination between the customs authorities of the Member States

a) Tariff headings

Some divergencies have been noted in connection with the tariff classification of particular products. These divergencies are principally due to differing systems of control and to slight changes in the constituents of a product, which are sometimes sufficient to make a substantial difference to the rate of refund or the compensatory amounts applicable. The Committee recommends improving exchanges of information and cooperation between the Member States themselves and between the States and the Commission, in order to deal as rapidly as possible with problems arising in connection with trade.

b) Customs procedures

The Member States differing customs procedures entail certain difficulties in connection with transit operations.

The Committee recommends, first of all, that each Member State should be more fully informed about the customs procedures of its counterparts and that measures should subsequently be taken to try and harmonize the various procedures.

3. Division of financial responsibility for stocks lost or spoiled

The storage regulations have very little to say about the financial responsibility for stocks lost or spoiled; this gives rise to certain disputes between the Member States and the Commission.

The Commission is preparing new provisions on storage and recommends that these specifically cover cases liable to lead to dispute as a result of quantity losses or depreciation of quality.

4. More intensive controls

In the preceding chapters the Committee has stressed that, in view of the opportunities for fraud, particularly stringent controls should be kept over the following operations :

- granting of aid for common wheat (controls on areas sown and on varieties should be generalised and intensified);
- granting of production refunds (the Committee has noted inadequacies in certain Member States);
- granting of export refunds on processed products (controls of production should be more systematic).

5. Sanctions

Some Member States have brought out general legislation dealing with infringements of Community rules, either under criminal law or by administrative action, whereas others prefer to publish specific texts, with the result that there are no sanctions at all for some infringements of Community rules in these countries.

Furthermore, some infringements cannot easily be dealt with under national criminal law because proof of fraudulent intent is often difficult to establish. This is why it is useful to have a system of administrative sanctions which can be applied to unlawful action irrespective of any fraudulent intent.

The Committee recommends that the deficiencies still existing in certain Member States as regards penal or administrative sanctions against infringements of Community regulations be remedied as soon as possible. In recommending that priority be given to remedying those deficiencies in the legal systems of Member States, the Committee anticipates early examination and discussion by the Council of Commission proposals relating to protection of Community interests by means of penal sanctions, proposals on which the European Parliament has already given an opinion.

6. Electronic data processing

Electronic data processing can play an important role in the management and control of agricultural operations. Computers greatly facilitate administrative tasks (filing, automatic handling of payments and receipts etc), but the Committee wishes particularly to stress the importance of using computers to facilitate controls and the detection of irregularities. Such applications have already been instituted in several Member States, for instance, systematic cross-checking of payments, with the successive participation of various administrative departments, computerized selection of operations to be checked, especially in the case of aid to durum wheat, and the compilation of files of operators guilty of fraud, instantly accessible to all the departments involved in controls.

However, the Committee notes that the development of computer applications has been so far confined within national frontiers. It wishes to point out that agricultural operations concern the Community as a whole and that cases of fraud generally involve more than one Member State.

A Community project is at present being studied (CADDIA, see Annex IV) : its purpose is to explore the scope for developing and linking present or future computer system in the Member States and the Commission.

A highly desirable development would be the systematic cross-checking of documents going back and forth (for instance transit operations) between the various Member States and between the States and the Commission, and the gradual compilation of Community files of defrauders and frauds or an intercommunication system cross-linking national files.

The Committee recommends that :

- the Member States should develop their own EDP applications in such a way as to facilitate integration in the future;
- the Commission should speed up work on CADDIA, to obtain a clearer picture of the scope for linking up national and Community systems.