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REPORT FROM THE COMMISSION

I. ON ACTION TAKEN IN RESPONSE TO THE COMMENTS
MADE IN PARLIAMENT'S RESOLUTIONS
ACCOMPANYING THE DECISIONS

- GIVING DISCHARGE IN RESPECT OF THE *GENERAL BUDGET*, THE *ECSC*
AND THE *EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING
AND WORKING CONDITIONS*
- DEFERRING DISCHARGE IN RESPECT OF THE *EUROPEAN CENTRE FOR
THE DEVELOPMENT OF VOCATIONAL TRAINING*

II. ON ACTION TAKEN ON THE COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION
ON THE DISCHARGE

FOR THE 1994 FINANCIAL YEAR



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PARLIAMENT RESOLUTIONS ACCOMPANYING THE DECISIONS

- GIVING DISCHARGE IN RESPECT OF THE *GENERAL BUDGET*, THE *ECSC* AND THE *EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS*
- DEFERRING DISCHARGE IN RESPECT OF THE *EUROPEAN CENTRE FOR THE DEVELOPMENT OF VOCATIONAL TRAINING* FOR THE 1994 FINANCIAL YEAR

1. PARLIAMENT RESOLUTION CONTAINING THE COMMENTS WHICH FORM PART OF THE DECISION GIVING DISCHARGE TO THE COMMISSION IN RESPECT OF THE IMPLEMENTATION OF THE GENERAL BUDGET OF THE EUROPEAN UNION FOR THE 1994 FINANCIAL YEAR

GENERAL ISSUES

(Parliament)

5. Calls on the Commission to fulfil the duties entrusted to it by the Treaties by seeing to it that Union expenditure is managed in a way ensuring full compliance with Union law; regrets in this respect the lukewarm attitude taken by the Commission towards Member States which ignore their legal obligations; insists that the Commission make full use of the means at its disposal to guarantee that appropriations spent represent good value for money and that the Union's financial interests are fully protected;

Commission reply

The Commission does its best to see to it that the Member States properly discharge their obligations in respect of the implementation of the Union budget. The effectiveness of such measures is limited by the resources available as compared with the number of sectors to be monitored. This is why the Commission has invited the Member States to join it, as part of Stage III of the SEM 2000 exercise, in giving thought to ways of making all partners aware of the need to manage Union money correctly. One aim is to make the conditions for the granting of Community aid clearer. In the Commission's view, this is the most promising path towards achieving better budgetary discipline.

THE STATEMENT OF ASSURANCE (DAS)

8. **Asks the Commission henceforth to include in the accounts of the European Union an account under the heading "specified amounts subject to recovery proceedings", specifying individual cases and sub-totals, on the basis of the substantial errors reported by the Court of Auditors; asks furthermore the Commission to inform the budgetary authority of action taken on each of those cases;**

Commission reply

In the balance sheet for the 1996 financial year the Commission will include a special heading to make clear the actual amounts owed following substantial errors detected by the Court of Auditors in respect of the statement of assurance. The Commission would, nevertheless, point out that if such debts are highlighted in the balance sheet, it must be with due regard for general accounting principles, particularly the principle of caution, the object of which is to avoid overvaluing assets and undervaluing debts.

In the case in point, the debts constitute an asset which, pursuant to the abovementioned principle, may not be over- or undervalued. A medium-term solution therefore needs to be found, as indeed was stressed in the report giving the discharge for 1994.¹

The Commission therefore proposes to put in an amount as a token entry and give details of it under the orders for recovery issued by authorizing officers against operators who have received Union resources where a substantial error was made in the payment of same.

**COMMISSION REPLY TO THE CASES RAISED BY THE COURT OF AUDITORS
IN ANNEX IV TO THE SPECIAL REPORT SUPPORTING THE 1994 DAS**

AGRICULTURAL SECTOR

Commission reply

Since November 1995, following identification of specific cases, the Commission officials concerned (EAGGF - Clearance of accounts) have been requested to take account of the cases referred to in Annex IV to the Special 1994 DAS Report when carrying out their inspection visits.

The letters sent to the Member States with comments take account of all such cases. Provided that the Member States do not dispute the facts and the regulations are properly interpreted, the Commission will draw all the requisite financial conclusions when clearing the accounts for the 1994 financial year. In this connection, discussions with the Member States are scheduled for 30 September 1996 and 11 October 1996. If all goes smoothly, the final decision will be taken at the end of 1997.

The Commission will attach a sheet to the summary report on the clearance of the accounts for the 1994 financial year setting out the action taken on each of the cases referred to by the Court; the financial corrections which need to be made to these are set out below.

1. Storage costs in respect of quantities cereals the existence of which had not been proved.

Commission reply

During the 1995 financial year the Italian authorities made a physical inventory of the quantities and quality of all cereal intervention stocks (100%). The outcome of the check was that in the 1995 financial year the initial stock figure of 23 505.9 tonnes was reduced (the financial consequences of the reduction for the 1994 financial year will have to be established when the accounts for this year are cleared) and a loss of 107 524.371 tonnes was registered; the EAGGF was reimbursed a sum of the order of ECU 14 million.

¹ Working document PE 218.048, para. 14.

2. *A stock of physical cotton different from the stock stated in the accounts audited, thus implying an over-declaration concerning the quantity of raw cotton.*

Commission reply

Raw cotton, Greece: - correction of the 6 cases = DRA 1 383 849 645
. - 5% flat-rate correction = DRA 10 035 213 214

3. *Subsidization of tomatoes which were unsuitable for processing.*

Commission reply

Processed tomatoes, Spain: correction PTA 195 325 406

4. *Coefficients which overestimated packaging costs.*

Commission reply

The rules in force at the time allowed two packaging coefficients (0.65 and 0.90) to be used. Following checks by the Commission, a 10% flat-rate correction was proposed in the case of Greece as regards the expenditure linked to the withdrawal of peaches and nectarines by the professional associations. The 0.90 coefficient has, moreover, been abolished for the 1995-96 growing season.

5. *Surface areas subsidized different from the actual areas.*

Commission reply

Arable crops:

- UK : correction UKL 18 243.69
- Greece : correction DRA 6 268 761.6
- Italy : correction LIT 2 058 189 860
- France : correction FF 1 091.15

6. *Quality coefficients overstated the qualities subsidized.*

Commission reply

France has been requested to notify the amounts of compensation overpaid.

7. *A payment made twice to the same beneficiary.*

Commission reply

Grubbing up of vines: Italy: correction LIT 71 213 615.

8. Tobacco production premiums paid for quantities exceeding those stipulated in the contracts.

Commission reply

Italy: correction LIT 774 393 428.

9. Tinned meat not containing the ingredients (according to the laboratory certificate) justifying the rate applied for the payment of export refunds.

Commission reply

Italy: correction LIT 157 293 262.

10. Underestimation of the profit on sales in the calculation of the public-storage costs.

Commission reply

Italy: In the final statement of public-storage costs produced by the computerized FAUDIT-ED system and supplied to Member States by the Commission, the anomalies noted by the Court (underestimation of the profit on sales) were automatically corrected in the accounts for the 1995 financial year.

11. Underestimation of the amount of the subsidy paid owing to the misapplication of the agricultural conversion rate.

Commission reply

Dried fodder - olive oil: Spain: correction - PTA 171 763 893.

12. Application for a premium unacceptable owing to its submission after the deadline.

Commission reply

Special beef and veal premium: Italy: correction LIT 5 384 460.

13. An item of expenditure declared for 1994, whereas it should have been charged to the financial year 1995.

Commission reply

As part of the overhaul of the accounts clearance system and in view of the need for assent from the paying organizations, the Italian authorities propose to simplify the payments circuit (the funds required for payment purposes will no longer have to go through the national treasuries), which would enable it to comply with the concept of payment as laid down in Article 9 of Regulation (EEC) No 2776/88.

- Dried fodder: Italy: expenditure of LIT 245 099 865 wrongly declared in 1994 when it related to the 1995 financial year.

- Sheepmeat: Italy: 3 payments totalling 7 526 809 declared in 1994 whereas it was expenditure for 1995.

The annual statement of expenditure will be adjusted accordingly.

14. *Non-imposition of penalties in respect of the late submission of a subsidy application.*

Commission reply

Beef and veal: penalty in respect of the late submission of a subsidy application. Italy: correction LIT 7 619 636.

15. *Overvaluation of the amount of aid owing to the incorrect classification of the land set aside.*

Commission reply

Italy: positive correction + 250 829.

16. *Declared expenditure in excess of actual expenditure.*

Commission reply

Italy: corrections LIT 346 895 600 and LIT 268 061 025.

17. *An over-high final payment made owing to the use of an incorrect exchange rate and to the oversight of an advance already paid.*

Commission reply

Italy: correction LIT 2 859 500.

18. *A subsidy paid for processing products which did not meet the specifications.*

Commission reply

Dairy products: UK: correction UKL 21 118.3.

19. *An amount recovered lower than the amount owed.*

Commission reply

Italy: correction LIT 308 296.

20. *A set-aside subsidy paid for ineligible land.*

Commission reply

Germany: corrections DM 3 551.31 and DM 1 579.51.

21. A premium paid in respect of ineligible breeding stock.

Commission reply

Sheepmeat: Italy: correction LIT 4 290 198.

22. Overestimation of stock depreciation owing to the application of the wrong coefficients.

Commission reply

In the final statement of public-storage costs produced by the computerized FAUDIT-ED system and supplied to Member States by the Commission, the anomalies noted by the Court (overestimation of stock depreciation) were automatically corrected in the accounts for the 1995 financial year.

Beef : Ireland : correction 1 959 936,73 IRL.

23. No deduction in respect of overlapping subsidies.

Commission reply

Arable crops: France: correction FF 335.86.

24. Subsidy increased owing to the application of the wrong agricultural conversion rate.

Commission reply

Bananas: France: correction FF 338 851.93.

25. Subsidy paid in respect of a non-existent winegrowing plot.

Commission reply

France: correction FF 7 824.38.

26. Non-application of the pro-rata reduction in cases of non-compliance with the obligation to set aside 15% of the land.

Commission reply

France: corrections FF 319.46, FF 1 176.28, FF 203.26 and FF 74.87.

27. Expenditure declared although the corresponding payments had not been made to beneficiaries.

Commission reply

Arable crops: correction included (see point 5).

28. *Sugar storage subsidies which should have been paid monthly and charged to the financial year 1993.*

Commission reply

Sugar storage subsidies which should have been declared in 1993 but were declared in 1994. The annual statement of costs will be adjusted accordingly.

29. *Reimbursement of the costs of sugar stored in an unauthorized warehouse.*

Commission reply

The Spanish authorities have produced evidence that the warehouse in question was recognized.

30. *Advances in excess of the ceilings stipulated in the Regulation.*

Commission reply

Improvement in milk quality: Spain: correction PTA 1 018 022 422.

FISHERIES

31. *The payment of a final balance on the basis of documents that were not adequate according to the regulations.*

Commission reply

The Commission can only confirm the reply given to the special DAS report, which was that while admitting that a number of secondary vouchers were not sent in with the payment application, the Commission said that the documents supplied were adequate grounds for paying the amount requested in full. However, the departments concerned have been instructed to inspect the vouchers which have to be submitted with applications for payment very carefully.

REGIONAL SECTOR

The settlement of the error cases presented by the Court in the regional sector, mainly in the area of ERDF expenditure, requires the following steps:

- I.** Examination whether the DAS errors had a direct impact on the Commission payments and therefore require a recovery of amounts paid (corrective action).
- II.** Examination whether the DAS errors have a potential future impact on the Community budget and therefore imply preventive action on the part of the Commission.
- III.** Detailed examination of the substance of the problems, which implies identification of the cases, collection of sufficient information and evaluation of the arguments in favour of and against the existence or severity of an error.

IV. Taking a documented view on the substance of each case and taking any necessary action (corrective or preventive).

I. Direct impact of the errors on the Commission payments

The ERDF co-finances operational programmes, which are series of coordinated multiannual activities. The selection of the individual projects, the control of their implementation and the verification of compliance with Community legislation are primarily the responsibility of the Member States.

ERDF payments are mainly advances to Member States, conditional on the progress of the implementation of the programme. The amounts to be advanced are fixed on the adoption of the programme. The timing of each payment, after the initial advance, depends on the expenditure declared by the Member State. The Commission establishes threshold levels (trigger points) of expenditure, required to be achieved and declared by the Member State in order to receive a certain payment. When the Member State declares expenditure above a certain "trigger point", it receives the prefixed advance. At the closure of the programme, Commission and Member States make the final settlement. If the Member State has not made sufficient expenditure, it may refund part of the amounts received. If it has made expenditure above the budget of the programme, it limits the ERDF payment claim to the maximum grant approved.

Any impact of Member State errors (eg. ineligible expenditure) on the ERDF payments would take place through the declarations of expenditure, in the sense that the expenditure which was declared to the Commission and triggered the ERDF payment might be insufficient when the errors are taken into account, so that the full ERDF payment would not be justified.

In this context, the Commission stated in its reply to the 1994 DAS report that these errors had in fact had no impact on the ERDF payments examined by the Court. This is because the Member States normally declare a level of expenditure well above the level required to trigger payment by the Commission of the next advance. Thus, even if the Member State declarations of expenditure included some ineligible items, the ERDF payments were justified by the sum of eligible items.

Even if the level of expenditure declared had not been sufficient to cover the DAS errors, the only consequence would have been on the timing, not the amounts of the ERDF advances. This is because the Member States continue spending after the submission of the declarations and the total level of expenditure therefore gradually increases. If the Member States had been aware of the ineligible expenditure items, they would have simply delayed the submission of the declarations until the levels of eligible expenditure had reached the trigger points.

The table following this section of the Commission's comments demonstrates that in almost all cases, the expenditure declared by the Member State (column 8) was considerably higher than the expenditure required for the ERDF payment (column 9), and that there was therefore sufficient margin to cover the amounts of expenditure which were considered by the Court as

ineligible. Only in one case (para 33) was the DAS error not fully covered by this margin; the result in this case was that the ERDF advance was paid two months early.

The Member State payment claims may have been inaccurate but were nevertheless valid because, even taking into account the errors, the eligible expenditure declared was above the trigger points and therefore, the claims qualified for the ERDF payments. For this reason, no recovery of amounts paid is required. The Court itself has recognised (para 3.146 of 1994 DAS report) that in the area of Structural Funds the errors do not necessarily affect the Commission payments.

The Commission considers that the categorisation of these problems by the Court as substantial errors was mistaken and misleading. According to the Court's definitions, errors which have no direct and measurable detrimental impact on the Community budget are considered as formal errors (see DAS 1994, para 1.40).

II. Potential future impact of the errors on the Community budget

The Commission has acknowledged in its Annex to the 1994 DAS report (pp. 88-90) that even if the DAS errors had no impact on the specific ERDF advances, they are nevertheless considered by the Commission as potential risks to be taken into account in the Commission's financial management. A future impact of these errors on the Community budget is conditional on the following :

- the errors presented by the Court are justified in the sense that the Member State declarations of expenditure indeed include ineligible expenditure items,
- these errors are not corrected by the Member State authorities and the final declarations of expenditure therefore continue to include the ineligible items,
- at the closure of the programme there is insufficient margin to compensate for these errors in the sense that the programme is closing within the approved budget and, therefore, the Commission payments relate to all expenditure items included in the declaration, even the ineligible ones.

On these three assumptions, the DAS errors bear a risk of a potential future impact on the Community budget and therefore may require preventive action on the part of the Commission.

This conclusion however is quite different from the allegations of the Court when it presented these problems as "substantial errors" which, by definition, imply a direct and measurable detrimental impact on the 1994 Community budget. The main argument of the Commission against the 1994 DAS approach was that the Court made the assumption that any ineligible items included in the Member State declaration had a direct, automatic impact on the Community budget. In its Annex (see 1994 DAS, pp.88-90) the Commission replied that this assumption was not valid and explained the technical limitations of this approach, mainly the Court's unsuccessful attempts to link the underlying transactions to specific advance payments

and to quantify the DAS errors (these have been ultimately presented in "gross values", i.e. total sums paid out by Member States, of which the Community co-financing could form only a part).

III. Examination of the substance of the problems (identification, information, evaluation)

Given that the majority of the 1994 DAS errors concern expenditure under the 1989-93 programmes, which are being closed during 1996, the Commission launched an examination of the substance of all the problem cases brought up in the 1994 DAS and Annual reports. The objective of this examination is to ensure that all problems reported by the Court have been satisfactorily settled before the closure of the programmes, in the sense that the Commission has available a written statement of the Member State, either explaining the situation in a reasonable and documented way and concluding that the Court's observation is not valid, or accepting the observation and undertaking the correction of the error, usually in the next declaration of expenditure.

This examination has been based on information included in the detailed audit reports (sector letters) of the Court of Auditors and in the Member State replies. Where the information or the Member State explanations were not sufficient to show that the problems have been satisfactorily settled, the Commission wrote to the Member State authorities requesting further clarification.

This follow-up examination however has encountered certain difficulties, mainly because the information available from the Court of Auditors is, in some cases, insufficient:

1. The Commission has not been informed of the opinion of the Court of Auditors on the sufficiency of most of the Member States' explanations. Since these problems have been discovered by the Court and only the Court itself is fully aware of the facts supporting the observations, it would be useful for the Commission to have the Court's opinion on the explanations of the national authorities. Moreover, it should be noted that especially for the 1994 DAS errors, the sector letters were sent to the Member States rather late, and in many cases the Member State comments have not been taken into account in the DAS report. This implies a certain risk for the validity of the DAS errors (e.g. 8 out of 26 cases needed a simple clarification by the national authorities) and, therefore, for the possibility of justifying financial corrections at the closure of the programmes.

So far, the Court has informed the Commission in only a limited number of cases of its opinion on the sufficiency of the Member State explanations of the DAS errors.

2. Many of the amounts of error included in the DAS report cannot be easily traced to the sector letters or to the Member State replies. In some cases, the amounts of error indicated in the sector letters are different from those included in the DAS report ; in some other cases, the sector letters do not indicate any specific amounts of error. The Member State authorities comment on the observations and the amounts indicated in the sector letters but they often do not recognise the cases to which the DAS errors refer. Therefore, the identification, evaluation and follow-up become laborious and, in some cases, impossible. These difficulties are

compounded in the case of the so-called "known errors", for which there are no specific DAS sector letters but a reference to other audit reports of the Court; the Commission has to try to identify these cases by reference to the size of the error mentioned.

The Commission wrote to the Court in March 1996 requesting specific information for tracing a number of DAS cases. No reply has been received yet.

IV. Conclusions of the follow-up examination

Of the 26 cases of "substantial DAS errors" in the area of ERDF, covered by paragraphs 32 to 43 of Annex IV of the DAS report, 3 cases are still under examination under Article 24 of Reg. No 4253/88 and 2 cases have not been identified because the information provided by the Court is not sufficient. The other 21 cases are considered as satisfactorily settled and do not appear to require any further follow-up by the Commission.

The table following this section of the Commission's comments summarises the situation. Detailed information for each individual case is given below.

32. Items of 1991 and 1992 expenditure declared as justifying other expenditure in 1993 presented as justification for an advance paid in 1994, compounded by a statement of expenditure which did not correspond to the accounts of the beneficiary audited, and computing equipment subsidized under a telematics project.

Commission reply

The observation concerns a project which was financed under the Telematics OP. Its eligibility is questioned by the Court because it concerns the purchase of informatics equipment; other problems concern the expenditure declarations and the accounting system of the beneficiary. The Member State authorities do not accept these observations. In view of the closure of this programme, the Commission wrote to the competent national authorities asking for further clarifications. It is underlined however that the final amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advance and final payment, forming thus a sufficient margin to cover the error; therefore this DAS error has no financial impact on the Commission payments and the question of recovery does not appear to arise.

33. The payment of costs connected with ineligible operations.

Commission reply

1) As explained by the Commission in its reply to the DAS report (point 33/2, page 82) this case concerns the certification by the Member State of expenditure concerning new actions, before the official approval of them by the Commission. The practical effect in this case is that a Commission payment was made two months early; the question of recovery does not appear to arise.

2) The information available to the Commission does not allow the identification of this case mentioned by the Court; it concerns "a known error" for which there is no specific DAS sector letter. The Commission wrote to the Court in March 1996 requesting information for tracing a number of DAS cases (this one included) but no reply has been received yet. In view of the closure of the programme concerned, the Commission took further action; it wrote to the national authorities concerned asking for identification and clarification of this case. It is underlined however that the amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advance, forming thus a sufficient margin to cover the error; therefore at this stage, the DAS error has no financial impact on the Commission payments made and the question of recovery does not appear to arise (see also para. 40).

3) Having been sufficiently informed by the Court and considering that the Member State replies were not satisfactory and these two problem cases were not settled, the Commission launched an examination under Article 24 of Regulation No. 4253/88 which has not been concluded yet. However, the amounts of expenditure declared by the Member State for these programmes are considerably higher than the amounts required for triggering the ERDF advances, forming thus sufficient margins to cover these DAS errors and ensuring the regularity of the Commission advances made.

4) The error, mentioned also in the 1994 Annual Report of the Court (para 4.18 a), concerns a declared purchase cost of about ECU 1.7 million for a piece of land which in fact represented ECU 0.56 million disbursed before the eligibility date and ECU 1.13 million used to repay a loan taken out when the land was purchased. In their reply to specific questions addressed by the Commission for the clarification of this problem, the Member State authorities undertook the correction of the error. Therefore, the question of recovery does not appear to arise.

5) The observation concerns an amount of ECU 748.648 paid by the beneficiary for several phases of a project, some of which were not cofinanced by ERDF. The Court recognized, however, in the sector letter that this error was probably corrected in the next declaration of expenditure. The competent national authorities, in answer to a specific question from the Commission on this subject, clearly stated that this error had indeed been corrected in the next declaration of expenditure; therefore, the question of recovery does not appear to arise.

6) The Commission amended its initial decision, C(94) 672/3 of 12 April 1994, by Decision C(95) 1719 final of 17 July 1995. The application for amendment of the decision submitted by the Member State covered, among other things, the work and the corresponding costs of ECU 572 779, as mentioned in Commission letter No 171845 of 16 December 1994. With the amendment of the said decision, these costs become eligible and there is therefore no need at this stage to effect a recovery.

34. *Expenditure lacking conclusive justification, certified by a Member State.*

Commission reply

The observation concerns an amount of ECU 47 547 which was deemed by the Court to be ineligible because it was not substantiated during the auditors' visit. The national authorities, in their reply, did not accept the validity of the observation and presented copies of the relevant supporting documents; therefore the question of recovery does not appear to arise.

35. *Declared expenditure below that in the beneficiary's accounts.*

Commission reply

1) The two DAS errors concern two amounts totalling about ECU 1 million which were declared in excess of the actual expenditure. The Member State authorities accepted the validity of the observation and committed themselves to correcting it in the next declaration of expenditure. It is underlined however that the amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advances, forming thus a sufficient margin to cover the errors; therefore at this stage, these DAS errors have no financial impact on the Commission payments made and the question of recovery does not appear to arise.

2) This observation concerns a "negative" error of ECU 21 691, i.e. the Member State declared an expenditure amount lower than that actually incurred. The question of recovery does not appear to arise (see also para. 36).

36. *Expenditure declared lower than the eligible expenditure incurred.*

Commission reply

This observation concerns a "negative" error of 449.176 ECU, i.e. the Member State declared an expenditure amount lower than that actually incurred. The question of recovery does not appear to arise (see also para. 35/2).

37. *Unpaid invoices and/or provisions included in a statement of expenditure.*

Commission reply

1) This observation concerns an error of ineligible expenditure of ECU 758. However, the very small value of the error in relation to the fact that the programme concerned has been closed with actual expenditure about ECU 11 million above the approved ERDF budget means that no correction or recovery is required.

2) The two errors, totalling about ECU 1 060 000, concerned expenditure which according to the Court had not been actually incurred at the time of the declaration to the Commission. The Member State authorities state that these amounts were not included in the declaration of expenditure examined by the Court but in a subsequent declaration, when the relevant amounts had indeed been paid out. The Court's observation does not therefore seem valid and the question of recovery does not appear to arise.

3) The observation concerns the method of certification of expenditure by a beneficiary company which is based on the cost accounting records and not on the actual payments. The Court however has later informed the Commission that in a subsequent audit in the same company (DAS 1995), the officials of the company assured the auditors that the method of certification of expenditure had been modified. In view of the closure of the programme, the Commission addressed specific questions on this subject to the competent national authorities in order to ensure that the expenditure certifications submitted to the Commission concern only expenditure actually incurred. The national authorities assured the Commission of the eligibility of the expenditure in the subsequent declarations. Therefore, the question of recovery does not appear to arise.

38. *VAT, which was deductible for the beneficiary, included in the statement of expenditure.*

Commission reply

The observation concerns the certification of an amount of about ECU 304 305 which, according to the Court, represented recoverable VAT. The national authorities explained in their reply that this amount of VAT was not in fact recoverable and was therefore eligible for ERDF cofinancing. The Court of Auditors, in a subsequent letter to the Commission, accepted the validity of the Member State explanations. Therefore, the question of recovery does not appear to arise.

39. Expenditure in respect of which the supporting documents could not be produced.

Commission reply

1) The observation concerns certified expenditure of about ECU 7.6 million which, according to the Court, was not supported by the documentary evidence required. The same observation was included in the "non-auditable" cases in the 1994 DAS report (para 3.132 (k), page 42), quantified at about ECU 74 million. The national authorities, in their reply, explain that the documentary evidence of the expenditure made by the communes is available only at the level of the communes and not at the central administrative service where the auditors carried out their control. The Commission auditors, during their own controls, have already verified that the documentary evidence concerning the communes is available only at the level of the communes. Therefore the Court's observation, probably resulting from a misunderstanding, does not seem valid and the question of recovery does not appear to arise.

2) This observation concerns an error of ineligible expenditure of 39 ECU. However, the very small value of the error in relation to the fact that the programme concerned has been closed with actual expenditure about ECU 11 million above the approved ERDF budget means that no correction or recovery is required (see also para. 37/1).

40. Expenditure outside the eligibility period.

Commission reply

1) The observation, included also in the 1994 Annual Report (para 4.16 (a), page 105), concerns certified expenditure of ECU 317 178 which was effected outside the eligible period. The national authorities did not present a complete reply to this observation. In view of the closure of the programme, the Commission addressed specific questions regarding this observation to the competent national authorities. It is underlined however that the final amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advances and final payment, forming thus a sufficient margin to cover this error; therefore this DAS error has no financial impact on the Commission payments and the question of recovery does not appear to arise.

2) The observation concerned expenditure of about ECU 7 170 000 which, according to the Court, was effected outside the eligible period. In the relevant sector letter however, the Court makes clear that the expenditure was only invoiced outside the eligible period but was paid within this period; therefore the Court concludes that the observation is valid only on the condition that the "invoice date criterion" applies. The Member State explains that the criterion for eligibility is when the expenditure is actually incurred (i.e. paid out) and not when it is simply committed or invoiced. The Commission considers that this observation resulted from a misunderstanding on the part of the Court in the sense that the relevant provisions relate the certification of expenditure and the eligible period to the actual payments and not to the invoices concerned. The question of recovery does not therefore appear to arise.

3) The observation concerns certified expenditure of about ECU 290 000 which was effected outside the eligible period. In the relevant sector letter, the Court accepted that this error had no impact on the Commission payment. The Member State authorities, in their reply, accepted that the observation was valid and that the declaration of expenditure submitted to the Commission included erroneously this amount. Given that the programme concerned had been closed before the notification of this DAS error, the Commission examined carefully whether this problem had any impact on the ERDF payments, justifying thus a recovery. The total expenditure declared by the Member State amounted to about ECU 27.8 million while the programme requirements were for ECU 27 million. Therefore, the amount of ECU 0.8 million spent and declared by the Member State above the approved ERDF budget is sufficient to cover the DAS error of ECU 0.3 million, thus allowing the Member State to qualify for the total ERDF grant; under these circumstances, no recovery of ERDF grant paid is justified.

4) The information available to the Commission does not allow the identification of this case; it concerns a "known error" of ECU 732 516 for which there is no specific DAS sector letter. The Commission wrote to the Court in March 1996 requesting information for tracing a number of DAS cases (this one included) but no reply has been received yet. In view of the closure of the programme concerned, the Commission took further action; it wrote to the national authorities concerned asking for identification and clarification of this case. It is underlined however that the amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advance, thus forming a sufficient margin to cover the error; therefore, at this stage, this DAS error has no financial impact on the Commission payments made and the question of recovery does not appear to arise (see also para. 33/2).

41. *Advances paid in excess of the limits stipulated in the Regulation.*

Commission reply

The error concerns the Commission payment procedures and it has already been explained in the Commission's reply to the 1994 DAS report (page 82, point 41). The question of recovery does not appear to arise.

42. *Expenditure which was ineligible because it did not relate to the project financed under the Operational Programme concerned.*

Commission reply

The observation concerns the eligibility of certain expenditure items included in the declaration of expenditure, amounting to 1.726 ECU. The national authorities did not present a complete reply to this observation. In view of the closure of the programme, the Commission wrote to the competent Member State authorities asking for further clarifications. It is underlined however that the final amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advances and final

payment, forming thus a sufficient margin to cover the error; therefore, this DAS error has no financial impact on the Commission payments and the question of recovery does not appear to arise.

43. A building used for purposes other than those which justified (and conferred entitlement to) the Community contribution.

Commission reply

Having been sufficiently informed by the Court and considering that the Member State replies were not satisfactory and this problem case was not settled, the Commission launched an examination under Article 24 of Regulation No. 4253/88 which has not been concluded yet. However, the amount of expenditure declared by the Member State for this programme is considerably higher than the amount required for triggering the ERDF advance, forming thus a sufficient margin to cover this DAS error and ensuring the regularity of the Commission advances made (see also para 33/3).

SUBSTANTIAL ERRORS CONCERNING ERDF PAYMENTS, INCLUDED IN THE 1994 STATEMENT OF ASSURANCE (DAS) REPORT

(ECU)

DAS para	DAS test	M-S	Programme (ERDF No)	Nature of payment	PROBLEM	Amount of DAS error	Expenditure declared by M-S	Threshold level of expenditure required for paym	Impact on ERDF payments	M-S response	DG XVI Follow-up	Explanations
1	2	3	4	5	6	7	8	9	10	11	12	13
para 32	PP4	ES	911110005	Adv1,2/93	ineligible project	4.223.000	58.727.128	34.739.700	NO		no follow-up	see detailed comments
para 33	KNPP31	ES	921103004	Adv2/prog	ineligible operations	4.235.431	6.396.515	3.095.505	early pay	satisfactory	settled case	see DAS94,p.82, point 33/2
para 33	KNPP34	ES	921109006	Adv2/93	ineligible operations	4.957.290	55.339.345	36.739.500	NO		letter to CoA,M-S	non identified case
para 33	KNPP36	BE	911009003	Adv1/93	ineligible operations	20.613	11.626.532	10.334.946	NO	unsatisfactory	Article 24	
para 33	KNPP37	BE	901010002	Adv1/92	ineligible operations	164.839	7.054.191	5.284.396	NO	unsatisfactory	Article 24	
para 33	KNPP38	ES	921109006	Adv2/93	ineligible operations	1.625.752	55.339.345	36.739.500	NO	correction	settled case	
para 33	PP194	PO	901210002	Adv2/93	ineligible operations	748.648	24.496.000	20.557.000	NO	correction	settled case	
para 34	PP12	UK	910909016	Adv1/93	non justified expenditure	47.547	3.438.960	720.000	NO	satisfactory	settled case	
para 35	KNPP40	ES	881109002	Adv1,2/93	decl.differ.from account.	823.694	54.821.133	39.423.700	NO	correction	settled case	
para 35	KNPP41	ES	881109002	Adv1,2/93	decl.differ.from account.	130.563	54.821.133	39.423.700	NO	correction	settled case	
para 35	PP15	ES	901109022	Adv1,2/93	decl.lower than account.	-21.691	40.141.068	25.651.250	NO		no follow-up	"negative error"
para 36	PP398	DE	890209002	Final	declar.lower than actual	-449.176	109.737.176	109.550.000	NO		no follow-up	"negative error"
para 37	KNPP389	IRL	890409001	Final	unpaid invoices, provisions	758	920.014.222	909.684.000	NO		no follow-up	closed progr.
para 37	KNPP496	GR	900810001	Adv2/93	unpaid invoices, provisions	260.286	106.275.665	32.994.077	NO	satisfactory	settled case	
para 37	PP17	ES	921109007	Adv2/93	unpaid invoices, provisions	395.308	12.914.944	9.248.500	NO	correction	settled case	
para 37	PP496	GR	900810001	Adv2/93	unpaid invoices, provisions	798.473	106.275.665	32.994.077	NO	satisfactory	settled case	
para 38	PP218	ES	921103003	Adv2/prog	non eligibility of VAT	304.305	2.790.479	1.994.250	NO	satisfactory	settled case	
para 39	PP389	IRL	890409001	Final	lack of documentation	39	920.014.222	909.684.000	NO		no follow-up	closed progr.
para 39	PP397	DE	940209004	Adv2/94	lack of documentation	7.596.257	236.300.000	61.831.500	NO	satisfactory	settled case	
para 40	KNPP32	ES	911110005	Adv1,2/93	out of eligible period	317.178	58.727.128	34.739.700	NO		no follow-up	see detailed comments
para 40	KNPP39	ES	921109006	Adv2/93	out of eligible period	732.516	55.339.345	36.739.500	NO		letter to CoA,M-S	non identified case
para 40	PP384	PO	941209008	Adv2/94	out of eligible period	7.170.255	28.893.828	12.025.000	NO	satisfactory	settled case	
para 40	PP407	DE	880210001	Final	out of eligible period	290.275	27.784.953	27.030.634	NO	satisfactory	settled case	
para 41	PP219	COM	850503048	Interim	advances above limits	1.854.638	this concerns the Commission		NO		no follow-up	see DAS94,p.82,point 41
para 42	PP400	BE	921009002	Adv2/93	ineligible expenditure	1.726	4.793.239	3.582.500	NO		no follow-up	see detailed comments
para 43	KNPP26	BE	901010002	Adv1/92	non ERDF use	511.478	7.054.191	5.284.396	NO	unsatisfactory	Article 24	

Social sector

44. *The financing of a general pre-training measure where only a training measure leading to qualification was eligible, combined with certification of expenditure based on previous supporting documents which was insufficiently substantiated by the Member State.*

Commission reply

The idea of training leading to a qualification is not to be found in the Community regulation on the old programming (1989-94), which merely states that training must lead to a job. The Commission has decided to regard pre-training measures as eligible if, and only if, they are part of a training course leading to a job. Thus, for example, in the case of Contrats Formation Individualisée (CFI - Customized Training Contracts), which are in three parts (mobilization, pre-qualification, qualification), only the last stage is regarded as automatically eligible. The first stage has been automatically excluded and the second has on occasion been considered if the applicant has been able to prove that there would be follow-up right up to the trainee's being recruited to a job.

45. *Use of PRODEP II funds as finance for PRODEP I operations.*

Commission reply

This was the first time the problem raised by the Court had been detected by the Commission, which therefore decided to block the advances for CSF II. The Member State then agreed to open separate accounts for the old fund (1986-89), CSF I (1990-94), CSF II (1994-99) and the CIPs. It undertook to channel ESF funds in accordance with Community decisions. The Commission has been able to ascertain that the Member State has abided by its undertakings.

46. *Declared expenditure in excess of actual expenditure.*

Commission reply

Greece: the balances from 1990-93 have not yet been closed as the Commission is in the process of making the requisite corrections in collaboration with the Member State.

Italy: the Commission is keeping a close watch on the cases currently before the courts. It has joined a civil claim to the public prosecution in several cases.

47. *Social Fund aid used for training students who were neither unemployed nor seeking work.*

Commission reply

The Commission has no information in its possession at present which would indicate whether the students on the training courses in question were seeking work or not before they started the courses. The Commission would stress that it is extremely difficult for it to carry out this type of exercise with its own resources.

48. Subsidies used for an ineligible re-training measure were recovered by the regional authorities, but not repaid to the Commission.

Commission reply

It is planned that the overpayment by the Tuscany region to which the Court alludes should be deducted from the amount outstanding for 1993. However, it has not yet been possible to book the request for the balance due which was submitted to the Commission by the region on 14 February 1996, as an annex required for processing the request had to be redone. Despite several letters from the Commission, the Tuscany region has not yet amended its request for the balance due, and the planned deduction has, therefore, not yet been made. The Commission is, however, keeping a close watch on this case.

49. The financing of ineligible training measures for infant and primary school teachers

Commission reply

The Commission has studied the problem raised by the Court and has recently initiated the procedure provided for in Article 24 of Regulation No 2082/93.

50. An advance paid on the basis of estimated expenditure instead of actual expenditure.

Commission reply

Advances for a particular year *N* are based on the certificates of implementation submitted by the Member States in respect of year *N-1*, except in the case of the first year of the planning period, for which the first advances automatically follow the adoption of the various forms of financial contribution.

As some courses last several years and the academic year straddles two calendar years, a Member State sometimes has to submit certificates of implementation at the end of the year based partly on actual expenditure and partly on estimated expenditure. When the requests for the balance due are submitted, at the latest by 30 June of the following year, the Commission then makes the requisite adjustments so that only actual expenditure is booked.

51. Funds transferred between Operational Programmes to cover costs which increased as a result of significant changes in exchange rates.

Commission reply

The new rules for the use of exchange-rate gains should prevent resources being transferred from one operational programme to another in future.

ENVIRONMENT

52. Declared expenditure relating to an advance paid, rather than the final beneficiary's actual expenditure.

Commission reply

The Commission, in its reply to the 1994 DAS report (p. 83), explained that the advance payments should not be considered as *a priori* ineligible expenditure but was not aware of the exact context referred to by the Court. The Commission has no sound basis therefore for considering that the expenditure in question is ineligible. This project has been included in the Commission's programme on-the-spot controls and the eligibility of the declared expenditure will then be verified.

EAGGF GUIDANCE SECTION

53. Expenditure declared equivalent to an advance paid, rather than the final beneficiary's actual expenditure.

Commission reply

In a letter to the Commission dated 3 April 1996, the Region of Puglia confirmed that it would in future take care not to pay any more advances to beneficiaries under Operational Programmes. In the case in point, however, no recovery needs to be made, since the payment of Community funds is an operation by the Member State to make the funds available which will be regularized when the balances due for 1992 and 1993 are paid and the final statements of expenditure are submitted.

54. The levying of a commission by the administrative body on subsidies paid to beneficiaries.

Commission reply

As far as Italy is concerned, the Commission contacted the Fondo di Rotazione and MIRAAF by letter of 22 February 1996 to ask for the situation to be rectified and for them to notify the Commission of the measures taken for that purpose. No response has yet been received.

As regards Portugal, despite assurances given by IFADAP on several occasions that no commission would be levied on beneficiaries after October 1994, it has been confirmed that the practice continues indirectly through the presentation of a separate invoice. It is no longer linked to the amount of aid paid, however, but to the investment. Thus, in the case of CSF II, 0.9% is being charged on measures 2, 3 and 5 and 0.45% on measures 1 and 4. The ministerial decision to charge these commissions is to be notified to the Commission for assessment.

RESEARCH

55. *An expenditure statement artificially inflated in such a way that the Community contribution financed all of the costs.*

Commission reply

Following a preliminary audit by the Court of Auditors, the Commission (DG XIII and UCLAF) carried out a full audit the outcome of which was that the company under suspicion was charged with fraud against the Community budget in respect of the irregularities it had committed. The Commission consequently took steps to terminate the company's participation in the contracts under audit, claim repayment of the sums paid to the company under the contracts and suspend all payments in its favour. As fraud was involved, the Commission also decided in July 1996 to forward the case papers to the competent judicial authorities in the Member State in which the company concerned has its head office.

56. *Expenditure submitted for Community support which had already been financed by a national research institute.*

Commission reply

The Commission deducted £8 532 from the final payment made on 24 January 1996.

57. *Declared costs overstated by using exaggeratedly high rates or omitting to deduct the amount of an advance already paid.*

Commission reply

Following the Court of Auditors' comments the Commission wrote to the contractor to ask for further information on the points raised by the Court. DYCAT International has not yet supplied the information, and the project coordinator has undertaken to serve notice on the company to supply the requisite documents by 15 June 1996. If no reply is received from DYCAT by that date, the Commission will reduce the amount of the final payment.

AID TO EASTERN EUROPEAN COUNTRIES

58. *Financing of the ineligible VAT portion of a PHARE project.*

Commission reply

The amount in question, 125 000 Hungarian forint (approximately ECU 874), was repaid by the Hungarian tax authorities on 16 February 1995.

ADMINISTRATIVE EXPENDITURE

59. Payment by the Commission of the purchase price of the "Clovis/Wilson" plot, even though it was not payable because the related contract had not been signed in the presence of a notary.

Commission reply

The error referred to by the Court was noticed and corrected by the relevant Commission department at once. An order for recovery was issued and the amount concerned recovered.

No payment can be authorized unless the relevant contract has been validly signed by both parties. The error brought to light by the Court was the result of a mistake as to the chronological order of the stages in a purchase procedure at the end of the financial year, to the advantage of a transfer aggregating appropriations which had not yet been implemented.

OWN RESOURCES

(Parliament)

10. Believes that the Commission and the Member States must step up their checks on the acceptance and customs status of goods at the Union's external frontiers and calls upon the Commission to draw up a report on these matters;

Commission reply

The Commission shares Parliament's view that checks on the acceptance and customs status of goods are a matter of particular interest. They have therefore been included in its programme of checks in the Member States and it will step up its work in this area still further.

The results of the checks carried out by the Commission from 1990 to 1993 were the subject of a communication to the two arms of the budgetary authority via the three-yearly report of 4 January 1994 (COM(93) 691) on the operation of the own resources checking system. A similar communication on the results of checks into own resources from 1993 to 1995 is due to come out by the end of December 1996 or the beginning of 1997 at the latest.

Regarding the responsibility borne by the Member States, Community customs regulations lay down that goods brought into the customs territory of the Community shall be kept under customs surveillance for as long as is required for the competent authorities in the Member States to satisfy themselves as their customs status.

As regards goods moving from one part of the Community's customs territory to another by sea, the customs status of which may be a matter of doubt to the national authorities concerned, the Commission has embarked on the preparatory work for the adoption of the proposal for an amendment to the legislation designed to stiffen the checks on goods as indicated by Parliament. The work is well under way. There are still, however, some

problems as regards goods subject to excise duty which have yet to be resolved; these might somewhat delay the adoption of the proposed amendment, which was originally due for adoption by the end of 1996.

(Parliament)

- 11. Calls on the Commission to submit an annual report on the forcible recovery by Member States of all amounts owed to the Community budget;**

Commission reply

As a means of following up the action taken by the Member States to recover traditional own resources, particularly those affected by fraud and irregularities, as recommended in Regulation No 1552/89, a method has been set up involving sample monitoring of cases where recovery has proved difficult up to the point of final clearance. "A" samples relate to own resources fraud cases involving amounts of more than ECU 500 000, while "B" samples relate to notifications within the mutual assistance scheme involving amounts greater than ECU 1 000 000.

As far as "A" sampling in 1994 (A/94) is concerned, there were some 100 cases of this type, the sum of which accounted for 70% of the base still to be recovered. When questioned about the cases, the national authorities reported on progress with recovery. As far as "B" sampling is concerned, six cases were selected for 1994 and 23 for 1995. The cases in the sample file are especially important as they are technically complicated and sensitive to deal with in practical terms. As it is unusual for such cases to be settled quickly, owing to the lengthy administrative and legal procedures involved, they go quite a long way back in time. In addition, the new "A" and "B" samples set up each year take over samples from previous years in respect of which final clearance has not taken place.

On 6 September 1995 the Commission sent Parliament a preliminary report on the "A" sample for 1994. It will send the report on the "B" sample for the same year very soon.

As regards enforced recovery procedures carried out at the national level, the Commission sent the Member States a questionnaire on the subject in autumn 1994; the replies to this are now being processed, to enable the Commission, should the need arise, to draw appropriate operational conclusions in both legislative and administrative terms.

AGRICULTURAL SPENDING

(Parliament)

- 13. Notes that, in spite of measures introduced in the context of the reform of the common agricultural policy, farm spending's share of the 1994 budget increased by 1.3% compared to the previous year;**

Commission reply

Agricultural spending fell heavily between 1993 and 1994, dropping from ECU 35 billion in 1993 to ECU 33 billion in 1994. Table 1 below shows the changes in expenditure between 1993 and 1994; the nomenclature for 1993 expenditure has been aligned on that for 1994, for purposes of comparison.

The cut in market prices for arable crops decided on when the reform of the CAP was adopted in 1992 was made in three stages, covering 1994, 1995 and 1996, with a corresponding rise in compensatory aid, leading to a programmed rise in expenditure on compensatory aid over the period in question.

The rise in expenditure in the arable crop sector (ECU 2 billion) attributable to the first stage of the establishment of direct aid for arable crops and in the pigmeat sector (ECU 215 million) following the compensating measures implemented as part of the programme of eradication of the epizootic of classical swine fever was largely offset by a fall in expenditure in most other sectors. The sectors to which most of the reduction can be attributed are:

- milk and dairy products (- ECU 960 million, including ECU 360 million owing to the fall in spending on refunds, particularly on butter following a cut in quantities, ECU 230 million owing to a fall in spending on promotion and marketing, and ECU 220 million owing to the decisions to reduce expenditure on compensation for abandonment of production taken in 1987-88 and 1991-92);
- olive oil (- ECU 650 million, owing largely to a catching-up of ECU 300 million in production aid payments in Italy in 1993 in respect of years prior to 1992-93 and to a decision by the Council to reduce the level of consumption aid in 1994, which accounted for ECU 170 million, as well as an ECU 140 million cut in intervention expenditure, which had been high in 1993 following heavy production in 1991-92);
- sheepmeat and goatmeat (- ECU 520 million, owing to the difficult market situation in the 1993 season, which entailed payment of higher ewe premiums; conditions returned to normal in 1994);
- beef and veal (- ECU 520 million, resulting from the fall in intervention expenditure in 1994 with the cessation of buying-in in 1994, following the buying-in of 425 000 tonnes in 1993 and the running down of publicly held stocks, which led to a rise in sales from 525 000 tonnes in 1993 to 730 000 tonnes in 1994 and a consequent cut in expenditure of nearly ECU 1.6 billion, partly offset by the decision to raise premiums following the reform of the CAP in 1992, entailing additional expenditure of nearly ECU 1.1 billion);
- wine (- ECU 330 million, reflecting a fall in production of table wine from 107 million hectolitres in 1992-93 to 91 million hl in 1993-94).

The fall in agricultural spending from year to year demonstrates that the reported growth in agricultural spending as a proportion of total expenditure does not mean that the former is out of control, nor is it a consequence of the setting up of stage two of the reform.

TABLE N°1:

CHANGES IN AGRICULTURAL SPENDING BETWEEN 1993 AND 1994

General expenditure from appropriations for the financial year	1993	1994	Difference
B1-10 Arable crops	10.611	12.652	2.042
B1-11 Sugar	2.189	2.062	- 127
B1-12 Olive oil	2.468	1.820	- 649
B1-13 Dried fodder and dry vegetables	532	378	- 154
B1-14 Textile plants	861	864	3
B1-15 Fruit and vegetables	1.664	1.557	- 107
B1-16 Wine	1.510	1.176	- 333
B1-17 Tobacco	1.165	1.057	- 108
B1-18 Other sectors	259	287	28
TITLE I	21.258	21.853	595
B1-20 Dairy products	5.211	4.249	- 962
B1-21 Beef and veal	3.986	3.467	- 520
B1-22 Sheepmeat and goatmeat	1.800	1.280	- 521
B1-23 Pigmeat	201	416	215
B1-24 Eggs and poultry	291	240	- 51
B1-25 Other operations	135	117	- 18
B1-26 Fisheries	32	35	3
TITLE II	11.657	9.804	- 1.853
B1-30 Non-Annex II	744	631	- 112
B1-31 Accession compensatory amounts	7	0	- 7
B1-32 Monetary compensatory amounts	136	4	- 132
B1-33 Food aid refunds	160	86	- 74
B1-34 Interest repayments	100	83	- 17
B1-35 Free distribution	130	136	6
B1-36 Fraud prevention	80	77	- 3
B1-37 Clearance previous period	- 385	- 612	- 227
B1-38 Rural development	445	340	- 105
B1-39 Other measures	-	47	47
TITLE III	1.418	794	- 624
B1-40 Income support	36	30	- 6
B1-50 Flanking measures	222	490	268
TOTAL EAGGF GUARANTEE SECTION	34.590	32.970	- 1.620

(Parliament)

14. **Deplores yet again the large gap between budget estimates and actual spending in the agricultural sector; takes the view that these differences cannot be explained solely by unexpected factors (weather conditions, diseases, etc); urges therefore the Commission to tighten management measures, in particular in the chapters showing a repeated overspend, and to work closely with Member States for the improvement of forecasts used as a basis for the budget;**

Commission reply

The Commission notes that the underimplementation of the budget was in large measure due to the difficulty of accurately estimating the parameters for gauging progress in implementing the 1992 reform, particularly the rate of use of the basic area for arable crops and the beef and veal premium quotas in the Member States. In the absence of detailed information from the Member States when the budget was drawn up, the first year of implementation of the reform being under way at the time, the Commission had to proceed on the basis of reasonable assumptions based on figures from the Statistical Office relating to the number of farmers joining the new scheme; these figures proved to be too high.

Another major factor in the low take-up was beef and veal. 1994 saw a turn-around in the market which few forecasters would have dared predict when the scheme was first set up some eight months earlier. The result was that there was practically no intervention buying-in and it became possible to run down publicly held stocks from 900 000 tonnes to less than 250 000 tonnes by the end of the year, through an active export sales policy.

With the chapters where there was an over-run, the Commission has not stood idly by but has applied Article 6 of the decision on budgetary discipline, taking the appropriate steps where these were within its sphere of responsibility (reducing or indeed eliminating certain refunds for eggs and poultry), putting proposals for reform of the COM in question (cotton) before the Council and setting up a system of strict financial supervision for the newly adopted flanking measures.

The Commission's chief concern is to bring about improvements on the agricultural estimates for the EAGGF Guarantee Section, both in its own departments and in the national administrations.

It is, however, very difficult to look to the lessons of the past for a better understanding of the future in this area. The experience of past years shows that each year the process of drawing up and executing the budget follows a pattern which is all its own. The Commission does, however, believe that more effective budgetary implementation could be achieved by reviewing the budget adoption procedure so that, by updating the economic assumptions on which the preliminary draft budget was based when it was drawn up some eight months or more before, the draft budget could be corrected by means of an amending letter before the Council's second reading, or the budget could be corrected by means of a supplementary and amending budget following adoption by the President of Parliament, applying a more flexible amendment procedure. Revising the budget in this way should be a normal stage in the budgetary procedure.

The Commission also believes that if the Community rules are simplified and applied in the Member States with a proper regard for the time limits for payment, it will substantially reduce the margin for uncertainty.

(Parliament)

- 15. Calls on the Commission, pending the final decision on the amount of the penalty to be imposed for malpractices which occurred in the Irish beef processing industry, to ensure that the Irish authorities fully implement Regulation (EEC) No 2456/93, aimed at guaranteeing the proper functioning of the beef market;**

Commission reply

As part of the process of clearing the accounts for 1992, the Commission has decided, in respect of public storage of meat in Ireland, that a financial correction of 10% for 1990 should remain in force, in view of the seriousness of the shortcomings detected there. Having regard to the steps taken by the Irish authorities in 1991 to make controls more effective and reliable, the correction was reduced to 5% for 1991.

It has not been possible to implement Regulation No 2456/93 in full, given the very small amount of intervention buying of beef and veal. The Commission will give special attention to this matter now that the Council has decided to take intervention measures following the recent outbreak of bovine spongiform encephalitis (BSE).

(Parliament)

- 16. Calls on the Commission to ensure that the French authorities fully implement in Haute-Corse the regulations on the special aid for hill and mountain areas and on the suckler cow premium and calls on the Commission to find a satisfactory solution regarding the restitution of unduly paid premiums; states that Parliament will pay full attention to this in the clearance of accounts procedure;**

Commission reply

The Commission is keeping a very close watch on the results of the controls carried out in Haute-Corse. Regarding the special allowance for hill and mountain areas, proposals will be made for recovery of payments from 1998 to 1994. In the case of the premium for maintenance of suckler cow herds, a financial correction of 25% of the expenditure has been proposed in respect of the financial years 1991 to 1994.

COMMON ORGANIZATION OF THE MARKET FOR FRUIT AND VEGETABLES

(Parliament)

20. **Calls on the Commission to check on the cases raised by the Court of Auditors as part of the clearance of accounts and to take the appropriate financial action, if necessary against the Member States concerned;**

Commission reply

When carrying out the scheduled controls in this sector, the Commission takes all the Court of Auditors' comments into account. Provided the facts are not disputed by the Member States and the regulations are properly interpreted, the Commission will draw and act on all the requisite financial conclusions when clearing successive accounts.

Should it prove necessary, the Commission will examine in greater detail the matters raised by the Court and disputed by the Member States.

In 1996 investigations concerning nuts took place in Spain (in February and April). With regard to tomato processing, two missions were sent to Spain (in June and September) and a third to the Netherlands (in August). A control mission to Greece relating to free distribution is planned for October, and another to Portugal in December in connection with citrus fruit.

(Parliament)

21. **Calls on the Member States to apply in full the provisions of the future COM and calls on the Commission to reduce the monthly advances paid under the EAGGF Guarantee to Member States which do not comply with the COM rules;**

Commission reply

The monthly advances paid under the EAGGF Guarantee will be reduced in the event of failure to comply with the rules.

(Parliament)

22. **Calls on the Commission to increase the material resources allocated to monitoring the implementation of the COM, to draw up a systematic monitoring programme and to consider a broader framework for cooperation between Community inspectors and those of the Member States;**

Commission reply

The controllers' team is at present down to two people, plus one other from the Accounts Clearance Unit. This team works with the Member States' inspectors in the sense that it avails itself of their services for the purposes of quality controls.

FISHERIES POLICY

(Parliament)

- 24. Asks the Commission to analyse existing legal provisions to bring Community rules into line with real market situations and the specific features of the Community tuna sector;**

Commission reply

The existing legal provisions will be analysed in the course of the on-the-spot control missions referred to at 25. In the light of the findings, the Commission will make proposals for any regulatory or administrative improvements which may be necessary.

(Parliament)

- 25. Calls upon the Commission, in cooperation with the authorities in the Member States, to carry out the checks referred to in the Court of Auditors' report in the 1996 financial year and to report to Parliament on the results;**

Commission reply

Last February the Commission (DG XIV and DG XX) drew up a programme of four control missions - two to Spain and one each to Portugal and France - to check the compensatory allowances paid to tuna producers. The primary purpose of the checks is to find out what the actual situation is in the sector, so that the Commission can make proposals for any amendments needed to the existing rules.

Two control missions have already taken place, to Spain (involving DG XIV and DG XX) from 22 to 26 April 1996 and to Portugal (involving DG XIV) from 28 to 30 May 1996; a second mission to Spain took place from 17 to 21 June 1996 and the last one will be to France in October. The findings will not be known until after the last mission in October.

(Parliament)

- 26. Invites the Commission to carry out an analysis of the current customs policy on tuna, in order to bring it into line with the sector's real needs, by taking equal account of producers' and processors' interests;**

Commission reply

The whole tuna trade framework was considered in the debate on the Commission's report of 28 June 1994 (COM(92) 266 final). Following the debate, the Council adopted Regulation No 3318/94 amending the basic regulation governing the COM in fishery products (Regulation No 3759/92). The amendment simplifies the awarding system while retaining the principles underlying the allowance, and will make it possible to improve the management system for the measure.

There are no plans at this stage for any review of the outcome of the debate. At all events, the Commission is keeping a watch on market developments, so that it can take any steps which may be required.

STRUCTURAL FUNDS

(Parliament)

28. **Considers that the Commission must adopt, with the necessary changes to the Regulation, an integrated approach containing the following elements;**

- **enhancing the role of the monitoring committees so that they genuinely monitor compliance with Community provisions and monitor the progress and management of the projects; recalls, in this respect, its views on this matter expressed already in its resolution on the 1989 discharge;**
- **drawing up selection criteria and other procedures so that compliance with Community provisions - particularly in the field of the environment and public works contracts - and the progress and management of projects can be monitored more effectively;**
- **using Article 24 (possibly in an amended form) of Regulation 2082/93 in such a way that failure to comply with the rules will genuinely and directly result in a reduction in or suspension or cancellation of the assistance;**

Commission reply

The Commission intends to review the regulations in the context of the preparation of the arrangements to follow the end of the current 1994-99 programming period.

The Commission considers that the existing Monitoring Committee procedures already reflect to a large extent an integrated approach, given that the responsibilities of the Committees for ensuring compliance with Community legislation, operating project selection and reporting overall progress form integral elements of each programme implemented under the partnership.

Under the present Regulations, compliance with Community legislation by Monitoring Committees is ensured by:

- . specific questions (notably on environmental and public procurement requirements) on the application forms completed by potential beneficiaries of Community aid;
- . checks made by the Monitoring Committee body responsible for project selection as part of the appraisal of individual projects;
- . queries made by the Commission representative in Monitoring Committee meetings.

In addition, on-the-spot checks are made by the Commission services, together with checks on the basis of statements made in the annual progress reports.

As far as selection criteria and associated monitoring procedures are concerned, the current generation of programming documents includes project selection criteria which were either present when the programmes were approved by the Commission, or (as

agreed with the Member States concerned) were to be added after approval, or were completed at the first meeting of the Monitoring Committee concerned.

The operation of these selection criteria is monitored by regular progress reports made to each Committee by the body delegated to effect the actual selection of projects. This procedure is designed to ensure not only that the projects selected are compatible with the overall objectives of the programme and that they respect Community legislation, but also serves to identify projects where progress is unsatisfactory and remedial action is required.

On the application of Article 24 of Regulation No 4253/88 [not 2082/93 as stated by Parliament], current practice generally allows projects affected by irregularity to be withdrawn from Community financing and replaced with other suitable projects so long as the programme in question is still running. Identified ineligible expenditure is normally deducted from subsequent Member State declarations of expenditure. There has therefore been, to date, little formal application of Article 24. However, with the closing of the 1989-93 programmes Article 24 may need to be applied in a number of cases. The Commission intends to ensure the full and proper application of this article in particular where there have been infringements of Community law, for example in the areas of environment or public tendering.

(Parliament)

29. Believes that internal procedures operated by the Commission which either formally or in practice may weaken Community provisions or management should be reviewed;

Commission reply

For each Community Support Framework (CSF), Single Programming Document (SPD) and Operational Programme (OP), a Commission department is appointed lead department and is responsible for the overall coordination of its implementation.

Allied to this, the Commission's Structural Fund departments have established at the level of the CSF or SPD a consistent system of permanent participants in Monitoring Committees (the four Structural Fund departments) and a sectoral participation (other Commission departments when the specific nature of the programme justifies this and as determined by a preparatory interdepartmental meeting). This approach ensures coordinated participation by the Commission in Monitoring Committees and, to date, has worked well.

In addition, the first two stages of SEM 2000, focusing on the Commission itself, concentrate on streamlining procedures and on the strengthening of financial units. This is now under way and is being complemented by stage three, which aims to create a better and closer partnership with the Member States on budgetary and financial matters.

(Parliament)

30. Takes the view that existing lacunae in the rules, such as those with regard to interest revenue and the powers and obligations of intermediary bodies, must be remedied;

Commission reply

Concerning financing channelled via the Member States' civil service departments under the Structural Fund arrangements, the Community ceases to be the owner of the funds once they are transferred to the Member States. Nevertheless, the Commission is concerned to check that Article 21(5) of coordinating Regulation No 4253/88, as amended, is complied with: this lays down a three-month time limit, in most cases, for the transfer of such funds to the final beneficiaries. In any case the question of the bank interest generated on Community advances is being looked into as part of Stage III of the SEM 2000 exercise.

The Commission also considers that clear guidelines are provided by Article 6(1) of Regulation No 4254/88, which defines the role and operating procedures of intermediary bodies. It would stress that it is up to the Member States, with the agreement of the Commission of course, to designate the intermediary bodies. It is therefore these which are, in the first instance, and particularly as regards their subsidiary financial accountability in relation to the management of Community assistance, answerable for the proper implementation of these guidelines, which are in fact set out in the guide to global grants produced by the Commission.

(Parliament)

31. Considers that global subsidies should not be used to provide loans;

Commission reply

In the Commission's view, Article 6 of Regulation (EEC) No 4254/88 as amended in no way excludes the possibility of assistance in the form of financial engineering and, as appropriate, loans, in so far as it is the "agreement [which] ... shall detail ... the types of measure to be carried out".

Article 1(c) of the same regulation expressly provides for ERDF assistance in the form of action to support local development initiatives, which are the priority field for global grants. Such measures, as defined by this article, do indeed include "improvement of access for enterprises to the capital market, particularly by the provision of guarantees and equity participation".

The eligibility criteria for such expenditure are under consideration as part of Stage III of the SEM 2000 exercise.

(Parliament)

- 33. Asks the Commission to honour its undertaking to forward to Parliament regular reports on the utilisation of the Structural Funds by Fund, Objective and Community Support Framework, showing in all cases the relative performance of each Member State;**

Commission reply

This is done in the Commission's annual reports on the Structural Funds.

(Parliament)

- 34. Calls on the Commission, and on the Member States in particular, to improve the rate at which projects and programmes are submitted so as to avoid a build-up of commitments in the last few months of each financial year, which leads to serious risk that decisions will be taken in undue haste and hence that errors will arise;**

Commission reply

Article 19(3) of Regulation (EEC) No 4253/88 requires the Member States to submit payment requests in accordance with a "balanced schedule" throughout the year. The Commission exercises no direct control over the rhythm at which the Member States forward such requests: these usually reflect national administrative practices and financial years.

The problem of the concentration of financial operations at the end of the financial year is being addressed in the framework of "SEM 2000 Stage III". However, it should be mentioned that the concentration of financial operations late in the year does not, of itself, suggest an increased error propensity; the programmes in question will often have been under careful examination for a period of months.

It should also be noted that the situation improved in 1995, despite the late adoption of certain Community Initiative programmes and the modification of the financial plans of a number of existing programmes in the latter part of the year.

(Parliament)

- 35. Urges the Commission to implement the Interreg initiative much more strictly and points out that the aim of this initiative is to promote cross-border cooperation and not merely the economic development of the areas in question, which could be achieved by other operations under the Community Support Frameworks;**

Commission reply

During the negotiations on the Interreg II operational programmes before they were approved by the Commission, the Commission made special efforts to ensure that the measures and provisions for cross-border cooperation were satisfactory. There are also plans for a flanking measure to support the proper implementation of this Community

initiative, involving technical assistance and the promotion of cross-border cooperation as a whole.

EUROPEAN SOCIAL FUND

(Parliament)

- 38. Calls on the Commission to take action to prevent the frequent delays before ESF funds are disbursed to final recipients, these delays being due to the fact that intermediate bodies wish to accumulate disproportionately high interest income;**

Commission reply

The Commission does, as a matter of course, take steps, when carrying out on-the-spot inspections, to ensure that Member States abide by the three-month time limit between receiving appropriations and passing on advances and payments to final beneficiaries in accordance with to Article 21(5) of Regulation No 2082/93.

The Commission is aware that the time limit is not always respected and believes there are two main reasons for this. The first is that many programmes adopt the method involving a call for projects, which means that the three-month time limit runs only from the time when a project meeting all the advance requirements is selected. The second is that in some Member States there are national rules governing the attaching of appropriations to the national budget which require appropriations to be carried over at the end of the financial year. Thus Community appropriations reaching the Member State after October are usually carried over and obviously cannot be made available to the final beneficiary within the required 90 days.

This state of affairs is an instance of Community regulations and national rules being incompatible, but the Commission undertakes to make further efforts to ensure that Community law is respected.

(Parliament)

- 39. Calls once again on the Commission to continue to monitor the application of the additionality principle and, to this end, to exert its influence on the Member States to ensure that all information necessary to ensure transparency is made available;**

Commission reply

The Commission is continuing to monitor the implementation of the additionality principle as part of the current budgetary estimates exercise, the object of which is to ascertain much more reliably and accurately what the Member States propose to spend as the national contribution to cofinanced ESF schemes. This indirectly enables the Commission to check that national contributions are being made, and how much they are, and thereby to guarantee that ESF cofinancing is additional.

Internal policies

(Parliament)

40. **Points out that the implementation of the commitment appropriations for the budget policies included in heading 3 of the Financial Perspective has not posed major problems, with the exception of the budget line on combating fraud in the sector of research (B6-840), which UCLAF is formally requested to utilize in forthcoming financial years;**

Commission reply

In 1994 ECU 50 000 were allocated to heading B6-840 and entered in the reserve at B0-40. The appropriations were transferred to the heading at the end of November 1994 by decision of the budgetary authority. As the appropriations for fraud prevention were therefore made available to the heading late in the year, it was not possible to use them in 1994.

In 1995 commitment appropriations of ECU 50 000 were allocated to the heading. Take-up during the year was 84% (appropriations committed: ECU 42 000). For 1996 the heading has again been allocated ECU 50 000 in commitment appropriations. The Commission will take the requisite steps to ensure that all the appropriations are committed.

(Parliament)

49. **Calls on the Commission to act on the remarks made by the Court of Auditors relating to the sectors of environment and research and in particular the remarks contained in paragraphs 6.12 to 6.17 and 9.10 to 9.15 of the annual report;**

Commission reply

(a) Environment

The Commission would emphasize that a major review and improvement of the selection procedures for LIFE projects has been carried out as part of the implementation of LIFE II.

An informative booklet is widely circulated each year, containing full details of both the selection procedure and the criteria applied. All projects are also considered by a Management Committee consisting of representatives of the Member States. The Committee adopts an opinion before the Commission goes through its decision-making procedure.

The facilities introduced by the new regulation will make for more effective technical and financial follow-up of current projects under LIFE II.

An auditing unit, which has been fully operational since the beginning of the 1996 financial year, is now responsible for ex post project assessment. A preliminary assessment of LIFE I was submitted to the Council and Parliament in November 1995

when the regulation was amended. As soon as the LIFE I projects are wound up (at the end of 1998), a final assessment will be carried out and the results circulated to the institutions, the Member States and interested parties.

(b) Research

9.11 The rotation and abstention principles applying to assessors on selection boards are fully secured in the programme on Training and Mobility for Researchers (TAR) (4th framework programme), the successor to the Human Capital and Mobility (HAM) programme.

9.12 The assessment boards for research projects put forward under TAR programmes consist of independent, high-level scientific experts. The boards are coordinated by the Commission. The results of the assessments of proposals for networks, large-scale facilities and flanking measures are submitted to the Programme Committee for an opinion. On fellowships the Committee is not consulted, merely informed. The information is sent after the Commission has taken a decision, resulting in an appreciable saving in time over the procedure followed for the previous programme (HAM).

9.13 Since the TAR programme came into operation, the time taken to go through the written procedures relating to assessments has ranged from a month and a half to two months and three weeks. The Commission is still working on cutting down these times.

9.14 The informative dossier describing the network activities in the TAR programme gives very precise details of the limits on Community financing and states exactly what information must be given in proposals. Where projects are selected for financing, the effect of this information is to simplify and shorten considerably the contract negotiation stage, which under the previous programme frequently delayed the start of research work. Thus, the 84 contracts which came out of the first selection process for large-scale facilities were negotiated within six weeks.

The contract negotiations for Euroconferences have been greatly simplified and the time taken is some ten days.

These problems do not arise with fellowships; in most cases, no contracts have to be negotiated.

9.15 Institutional fellowships no longer form part of the programme on Training and Mobility for Researchers. The two-stage selection procedure peculiar to that particular activity is no longer applied in the TAR programme.

(Parliament)

- 50. Calls on the Commission to submit a legal basis for subsidies to consumer organizations and to conduct its own examination as to whether the subsidies to be granted provide value for money;**

Commission reply

DG XXIV is finalizing a proposal for a legal basis which will be submitted by the Commission at the beginning of 1997. In its proposal the Commission will set out the priority themes on which the Union and the organizations concerned will be able to develop joint measures over the next few years. Given the limited resources available and the extremely wide range of needs which have been expressed, all possible ways of establishing synergy for the development of major projects must be sought out and as many organizations as possible, from different geographical areas, must be involved in jointly developed projects of this kind. This should appreciably enhance the effectiveness of Community action on behalf of consumers.

In its proposal the Commission also expects to set out the precise criteria and practical arrangements for the granting of financial support by the European Union.

Without prejudice to any decisions taken by the legislative authority, the Commission has been keen to prepare the ground for 1997 and in OJ C 213 (23 July 1996, p. 18) it published a call for the presentation of projects for the promotion and protection of consumer interests. The notice sets out a number of priority themes (including information, education, access to the information society, sustainable consumption, transparency in the service sector and better access to justice), the project selection criteria and the conditions for obtaining financial assistance.

Special attention will be paid to the assessment of projects submitted, particularly as regards performance and cost-effectiveness indicators.

(Parliament)

- 51. Calls on the Commission's Public Health Directorate in DG V and the Directorate-General for Consumer Policy to produce annual overviews similar to those produced by the Directorate-General for the Environment, Nuclear Safety and Civil Protection;**

Commission reply

Once the current departmental reorganization has been completed, DG XXIV should have the resources, as provided for in the SEM 2000 programme, with which to monitor operations under way as effectively as possible with a view to gauging how effective they are. Assessment indicators are being introduced into all operations carried out or supported by the Commission. As a first stage, a report on the implementation of measures in 1996 will be submitted at the end of 1997. Once detailed assessment has been carried out and the indicators have been monitored in operations carried through in 1997, a detailed report will be produced at the end of the next financial year.

(Parliament)

- 52. Calls on the Commission to ensure a fuller rate of utilization of payment appropriations in policy areas such as transport safety (Article B2-702) and combined transport (Article B2-706), to which Parliament has always attached high priority;**

Commission reply

The reason for the low rate of utilization of payment appropriations under Articles B2-702 (transport safety) and B2-706 (combined transport) is that a substantial proportion of the commitment appropriations were implemented in the last quarter of 1994.

Because of this delay in making commitments, it was not possible to use the corresponding payment appropriations; the advances on certain contracts concluded towards the end of 1994 were not paid in good time before the end of the financial year.

The situation was corrected in 1995, with close to 100% utilization of payment appropriations under all headings in Chapter B2-270 (Transport).

LENDING AND BORROWING

(Parliament)

- 54. Reiterates its demand that the Court of Auditors have full audit access to the operations of the European Investment Fund in order that it can report to the budget authority on matters relating to the Community budget; calls however on the Commission, the EIB and the Court of Auditors to negotiate an agreement with the European Parliament on the treatment of the information thus obtained to ensure that the interests of EIF investors and borrowers are protected;**

Commission reply

Further discussions are taking place between the Court of Auditors and the EIF with a view to securing as satisfactory an agreement as possible on the arrangements for auditing the EIF, particularly the processing of information, so as to guarantee that the interests of the EIF's creditors and debtors are safeguarded. The Commission is taking steps to bring about a results which satisfies all the institutions concerned.

(Parliament)

- 55. Notes that the Guarantee Fund is insufficiently resourced to meet the potential level of demand made upon it and that the mechanism by which it is funded in practice places an excessively low limit on the amount of external lending the Community is able to undertake; supports therefore the following measures:**

- **an increase in the budgetary resources available to finance the Guarantee Fund and the revision of the Financial Perspective necessary to achieve this,**

- **the establishment of the target level for the Guarantee Fund on the basis of an ongoing risk analysis of loans outstanding at any given time, together with an appropriately flexible funding system,**
- **the reduction of the amount of the guarantee granted to the EIB for loans in the countries of Central and Eastern Europe and the Mediterranean basin from 100% to 75%;**

Commission reply

At the end of 1995, the resources available to finance the Guarantee Fund came to ECU 300 million. Payments expected to fall due in the course of 1996 come to ECU 1081 million, so that the Fund covers nearly 30% of payments falling due. The resources available to the Fund should be sufficient for it to respond if the guarantee is called on.

The Fund was deliberately set up to prevent any potential defaults from upsetting the implementation of the budget. Its purpose was also to enable borrowing and lending to develop in a framework consistent with budgetary discipline, which necessarily involves imposing limits on such activity.

The machinery also comprises provisions which in a simple but automatic way determine the target amount in relation to the amounts of guarantees covered by the Fund and still outstanding.

The rate of cover of the guarantee given to the EIB is currently being examined by the Bank and the Commission. Any reduction in the rate would release considerable additional lending and loan guarantee capacity, even without any increase in the budgetary resources allocated to the Guarantee Fund.

(Parliament)

- 56. Regrets the fact that the Court of Auditors continues to comment adversely on the management of the finance provided for earthquake reconstruction work in Italy since 1980; asks the Commission to review its decision to re-allocate unused funds intended for earthquake reconstruction to another project completed ten years previously, and arrange with the Italian authorities for the reallocation of the sum to an eligible ongoing project;**

Commission reply

The decision to reallocate to another project part of the loans already granted to the 12-year programme of reconstruction was taken when the transfer decision was taken. This procedure was expressly provided for in the protocol of agreement countersigned by the Commission, the EIB and the Italian Government; it was used only on an exceptional basis, to complete the programme. The protocol was signed for a 12-year term (expiring at the end of 1993) in line with the guidelines laid down in the Italian Framework Act on the reconstruction of disaster areas. There are currently therefore no further eligible projects under way.

FIGHT AGAINST FRAUD

(Parliament)

- 57. Regrets the low utilisation of appropriations of some key headings in the fight against fraud such as B1-360 and B2-5190 (in the agricultural sector) B6-480 (research) etc; asks the Commission to ensure full utilisation of all anti-fraud headings, and to consider, where appropriate in cooperation with Member States, necessary measures to increase the utilisation capacity of the latter;**

Commission reply

The Commission also regrets the excessively low utilization by the Member States of the fraud prevention appropriations (heading B1-360) made available to them under Regulation (EEC) No 307/91 for the purpose of strengthening their control facilities. This underconsumption has occurred despite constant and ongoing prompting of the national governments concerned by the Commission. The report which the Commission submitted to the Council on 12 October 1995 (COM(95) 467) sets out the reasons for the low take-up and ways of rectifying the situation.

On the question of heading B2-519, the Commission notes that it was created by Parliament when the 1994 PDB was in preparation, without any consultation with Commission departments and without regard to the identical possibilities for funding offered by other headings. Even so, 60% of the appropriations used and 18 of the 19 operations financed can be ascribed to the agricultural control departments.

In a broader sense, the Commission would draw Parliament's attention to the fact that although the making available of financial resources for fraud prevention is a necessary operation, it is not a sufficient one, just as the rate of take-up of appropriations can only be a partial indicator of the effectiveness of the measures undertaken.

Applying the lessons of its experience in this area, the Commission has proposed a new regulation, which is currently under discussion in the Council, on the carrying out of Member States' action programmes in the field of EAGGF Guarantee expenditure control.

The reason for the low rate of implementation of the headings containing appropriations for fraud prevention in the field of the Structural Funds, the amounts for which were initially entered in the reserve under B0-40 (this also applies to headings B6-840, Research - see point 40 - and B7-530, relating to the cooperation sector), is the late availability of the operational appropriations.

From 1996, operational appropriations in the area of the structural policies (and other internal policies) have been brought together under a single heading (new heading B2-150). Appropriations relating to agriculture are also to be found under a new heading (B5-910), which also covers traditional own resources. A firm expenditure plan for these two plans in 1996 (and other years) will be drawn up, in accordance with the policies of strengthening operational presence in the field and technical assistance or logistical back-up (including training for national officials) which the Commission is pursuing in relation to the Member States' specialist fund control and management departments.

COOPERATION WITH THE MEDITERRANEAN COUNTRIES, THE DEVELOPING COUNTRIES AND OTHER THIRD COUNTRIES

(Parliament)

- 59. Urges the Commission to remove the unnecessary constraints and conditions on the use of the funds granted to support structural adjustment in the countries of the Southern and Eastern Mediterranean, inter alia by considering the possibility of abandoning import programmes, provided the foreign trade of the beneficiary countries is sufficiently liberalized and the currencies are freely convertible and transferable, and replacing such programmes with straightforward balance-of-payments support;**

Commission reply

The Commission endorses Parliament's remarks as to the desirability of converting the adjustment support instruments into direct balance-of-payments assistance instead of aid for import programmes (on condition that foreign trade is sufficiently liberalized and currencies are freely convertible and transferable).

These comments reflect the thinking in Commission departments as validated by Council Resolution No 7566/95 of 1 June 1996. The Commission has in fact applied this approach in the context of a new programme of adjustment in Tunisia and Jordan.

(Parliament)

- 60. Calls on the Commission to ensure that its supervision and control procedures are improved and better targeted, and to increase the staff resources allocated to the structural adjustment support programmes by means of internal redeployment, making additional staff available who have the necessary skills and experience to perform the budgetary and financial analyses required for each beneficiary country and ensure that the budgetary strategies of those countries are compatible with the economic reform programmes;**

Commission reply

The reallocation of certain responsibilities to the Resources Directorate in line with SEM 2000 allows a rationalisation of responsibilities within the operational directorates. In particular, the release of technical units (including the newly created economic cooperation units which formerly covered a part of their task) from carrying out the financial and administrative work of contract award and negotiation, will allow those units to take the lead role for projects within their respective responsibilities throughout the project cycle (in effect, the "task management" approach advocated in the recent internal audit). This, in turn, will allow geographical units to discharge more effectively their policy and coordination role in respect of our partner countries. A new post for an economist has been created in the Mashreq unit and another for the Maghreb. It has also been decided to involve DG II in these matters, and to step up coordination with the IMF and the World Bank.

Regarding 1996, the budgetary authority, at the Commission's request, has decided to allocate a maximum of 3% of the appropriations available for the Mediterranean countries to the preparation, follow-up and evaluation of the projects and programmes financed by the Community in the countries concerned.

COMMON FOREIGN AND SECURITY POLICY (CFSP)

(Parliament)

64. Calls on the Commission to submit a report by 1 September 1996 on all the financial and associated institutional aspects of the CFSP, including, in the interests of complete transparency, the role and significance of the contributions made by the Member States towards its funding;

Commission reply

The financial aspects of the implementation of CFSP measures are as follows.

Introduction: the legal basis

When the Council adopts a common position or measure with financial implications in the context of the CFSP, it may, in accordance with the second paragraph of Article J.11(2) of the Treaty, decide that all or part of the expenditure is to be charged either to the Member States or to the budget of the European Communities.

When the Council adopts the first of these approaches, it decides on an amount and proposes a scale for determining the national contributions.

In the second case, the usual budgetary procedure applies and the Commission is responsible for the budgetary implementation of the measure.

Financing charged to the Member States

The national contributions decided on by the Council in the framework of CFSP measures related to the channelling of humanitarian aid to Bosnia.

On 20 December 1993, the Council, to carry this objective through, decided (93/729/CFSP) on a sum of ECU 48.3 million, charged partly to the budget of the European Communities (see Annex 2) and, in respect of ECU 24.15 million, to the Member States, applying a method of dividing the sum up which was to be decided later.

On 7 March 1994 the Council extended the decision to 30 September 1994. National financing of ECU 17 million was mobilized to assist the administration of Mostar, applying a GNP-based scale, by Council Decision No 94/308/CFSP of 16 May 1994. A further decision (No 94/51/CFSP of 27 July 1994) was taken on the remaining ECU 7.15 million. Both decisions were extended (see Annex 1).

Funding charged to the budget of the European Communities

Since the Maastricht Treaty came into force, 11 operations have been financed in this way from the appropriations held in reserve in the budget of the European Communities,

accounting for ECU 163.360 million in commitments (ECU 126 150 for Mostar and ECU 37.210 for other purposes - see Annex 2, Summary table of budgetary implementation).² The annual budget has been progressively adjusted for this purpose.

1993 and 1994: establishment of budgetary headings for the CFSP

- For 1993: in anticipation of the adoption of the Treaty on European Union, the budgetary authority inserted a special chapter, B7-01, for the Common Foreign and Security Policy. A token entry was made against Article B7-010 (operational costs of the CFSP).

At the end of the budgetary procedure, an allocation of ECU 14.150 million was committed to Article B7-010,³ of which ECU 10 million was assigned to Mostar and ECU 4.15 million to sending humanitarian aid to Bosnia (by airlift). The cost of carrying the latter operation through was less than originally expected and nearly ECU 0.75 million was decommitted.

- For 1994: ECU 20 million in commitment appropriations and ECU 10 million in payment appropriations were entered against Article B7-010 by way of SAB No 2 and committed for the administration of Mostar (CFSP joint action 94/790 of 12 December 1994). The draft budget was amended at Parliament's first reading in order to add to the Commission's operational reserves (Chapter B0-40) an allocation of ECU 1 million to create a possibility of transfer to CFSP operational reserves.

Since that time the making available of these appropriations has been subject to decision by the budgetary authority on each joint action. In the case of non-compulsory expenditure, Parliament has the final say on whether or not to approve such transfers within a time limit of six weeks.

Implementation of the 1995 budget

A new subsection for the CFSP, B-8, was created in the 1995 budget. Certain articles were put into it for the purpose of implementing measures previously identified: Joint action of the European Union in Mostar (B8-100), Joint action of the European Union for a stability pact (B8-101), Joint action of the European Union for the 1995 conference on the Non-Proliferation Treaty (B9-102), Other joint actions of the European Union for the CFSP (B8-103).⁴

Not just the appropriations for B8-100 (ECU 50 million in commitment appropriations and ECU 35 million in payment appropriations) were entered in the reserve (B8-040), but also those for B8-103 (ECU 48.5 million in CAs and ECU 38.5 million in PAs).

² With the exception of Council Decision No 93/604/CFSP of 9 November 1993 concerning the joint action concerning the dispatch of a team of observers for the parliamentary elections in the Russian Federation, regarded as "administrative expenditure" incurred by the Council within the meaning of Article J.11(2).

³ By transfer 25/93.

⁴ See Council Decisions 93/728/CFSP of 20 September 1993, 94/367/CFSP of 14 June 1994 and 94/509/CFSP of 25 July 1994 respectively.

Budgetary implementation in CAs under heading B8-100, concerning Mostar, came to ECU 60 million (10 million entered against the heading and 50 million from the reserve). In PAs, ECU 63.25 million were implemented out of ECU 65 million authorized (five against the heading, 35 from the reserve and 25 from a SAB). Implementation of heading B8-103 came to ECU 24.660 million in CAs and ECU 12.326 million in PAs of the ECU 23.660 million authorized.

Implementation of the 1996 budget

The Commission proposal in its preliminary draft was for ECU 92 million in CA (32 million against heading B8-010, Mostar, and 60 million in reserve for heading B8-013, Other joint actions for the CFSP), and ECU 91.250 million in PA (36.250 million against heading B8-010, 10 million against heading B8-013 plus 45 million in reserve for heading B8-013). The budgetary authority decided to reduce the amount planned for the other CFSP operations by half, leaving ECU 30 million against reserve heading B0-40.

After nine months of budgetary implementation, all the appropriations against heading B8-010 had been mobilized and nearly 50% of the appropriations had been placed in reserve for heading B8-013.

PDB and DB for 1997

In its preliminary draft budget for 1997 the Commission proposed increasing the CFSP reserve allocation to ECU 50 million. Following the expiry of the EU mandate to administer Mostar, there is no provision for any commitment appropriation for 1997.

Conclusion: Proposed improvements

The length of the time limit attached to the budget transfer procedure may obstruct the implementation of CFSP actions, particularly those taken in response to an emergency situation and/or intended to cover a limited period. It would be useful to set up an accelerated procedure for CFSP actions requiring rapid implementation.

In addition, as a flanking measure alongside any resulting reduction in the above time limit, and so that the ground may be prepared as effectively as possible for the budgetary implementation of CFSP actions, it would be desirable for the Commission to be given a margin for financial manoeuvre similar to the heading in the Council budget for special envoys.

PHARE PROGRAMME

(Parliament)

66. Asks the Commission to provide:

- **explicit job definitions and responsibilities for all elements in the Phare management structure (especially delegations),**

- **full and technically qualified staffing for delegations, to be achieved through the creation of a "diplomatic service", ensuring genuine staff mobility, in the Commission,**
- **clear regulations on the conditions and competences for local staff in delegations,**
- **financial autonomy (local budgets and spending limits) and project approval by delegates, with due regard to the location of the delegation, the seniority and experience of the delegate, etc.,**
- **clear and explicit delineation of administrative responsibilities of statutory staff, temporary staff and outside consultants,**
- **rationalisation of PMUs on the basis of an analysis of genuine management need;**

Commission reply

At the beginning of 1996 the Commission provided the budgetary authority with a memorandum on the division of responsibilities and chains of command between headquarters and the Delegations (Countries of Central and Eastern Europe - Newly Independent States) in the context of the Phare and Tacis programmes.

The purpose of the memorandum was to act on Parliament's resolutions in connection with the granting of the discharge for 1994 and the draft budget for 1996. The object was to help to constitute the basis for the agreement sought by the European Parliament, and the memorandum set out to consider the following:

- the state of the network of delegations in the countries of Central and Eastern Europe (CCEE) and the Newly Independent States (NIS), and the shortcomings of the network;
- a reshaping of the network of delegations in line with the new framework for pre-accession relations with the CCEE and partnership with the NIS;
- a reallocation of responsibilities between headquarters, the delegations and other bodies, and
- strengthening arrangements for the application of the new system of division of responsibilities between the CCEE-NIS delegations and headquarters.

The Commission has meanwhile prepared a new guide to procedures concerning the implementation of Phare, which will provide the basis for a further deconcentration. In that framework, the Commission's delegations should be in a position to assume more responsibilities as a result of the reinforcement of their staff, as mentioned in the budgetary comments of budget line B7-500.

Thus the new procedural framework has taken account of the exhaustive survey carried out into the position of the programme management units (PMUs). The new guide therefore makes provision for rationalization and greater transparency as regards the costs of programme management.

(Parliament)

67. Calls on the Commission to produce, by 30 September 1996, a strategy paper defining the role of the Phare Programme in the preparation of the countries of Central and Eastern Europe for accession to the EU;

Commission reply

Following the Essen and Cannes European Councils, new planning and monitoring instruments for the Phare programme have been developed for the 1995-99 period.

Acting on the timetable adopted by the Madrid European Council at the end of 1995, the Commission sent the CCEE concerned a very comprehensive questionnaire to be used as a basis for a Commission opinion on the applications for membership.

The Commission will carry out its analysis of Phare in the light of the pre-accession strategy with due regard for, among other things, these new instruments and the replies to questionnaire sent out to the CCEE.

(Parliament)

68. Calls for a more pro-active approach to project definition and approval by the Commission, including the stipulation of conditions designed to ensure concrete results, dissemination of technical know-how and medium term sustainability of effect for Phare projects in all sectors;

Commission reply

The identification and definition of Phare-financed programmes and projects generally takes place at the planning stage. This is done through negotiations at which the Commission acts as a driving force to bring about agreement with the partner countries.

When they were submitted to the Phare Management Committee, the programmes and projects identified were analysed in order to guarantee:

- the conditions in which they would be implemented (particularly through application of the logical framework method, which ensures a constant link between activities and the objectives in view), and
- sustainability in the medium term.

Regarding programme monitoring, the Commission has just (mid-1996) introduced a more pro-active approach involving systematic consideration of each programme. The consideration involves checking up, in partnership with the beneficiary, on how programmes and projects are advancing towards their objectives and, where necessary,

taking corrective action. This more intense form of follow-up should improve Phare performances.

TACIS PROGRAMME

(Parliament)

69. Asks the Commission to specify unambiguously which tasks involved in the management of Tacis:

- **should be the exclusive responsibility of public authorities and only carried out by public officials,**
- **can be carried out by non-officials employed by the Commission and overseen by officials,**
- **can be contracted out under supervision;**

asks the Commission furthermore to state what staff resources are required for each category of work;

Commission reply

The following Tacis tasks must be carried out by Commission officials and other in-house staff.

Responsibility for the selection of sectors and projects during the preparation of Indicative Programmes (selection of focal sectors and areas) and preparation of Action Programmes (selection of projects) lies with officials.

Sectoral strategies are prepared by officials (80%) with the assistance of external experts (20%) for technical aspects.

Preparation of terms of reference (ToRs): the technical specifications are prepared by external experts (50%) and the ToRs are finalized by officials (50%).

Tendering and contracting: officials are responsible for the short lists, the evaluation of the bids and negotiation of the contracts (30%); external experts are responsible for all administrative tasks relating to the tendering and contracting procedure (70%).

The supervision of project implementation is entrusted to officials (80%) with the assistance of external experts.

Monitoring and Evaluation are carried out by external experts (80%) under the supervision of officials (20%).

Payments are made by Commission officials assisted by other intra-muros staff.

Tacis services are understaffed and in this respect the reinforcement of the Commission representation in the Newly Independent States (NIS) should be the priority.

(Parliament)

- 70. Calls on the Commission to open permanent delegations with clear-cut competences in all countries benefiting from Tacis assistance, and to ensure that they are fully staffed with appropriately qualified officials; to this end believes that the relevant directorate-general of the Commission should recruit officials on the basis of compulsory mobility; asks the Commission to report to Parliament on the action it intends to take to meet these requirements by 31 July 1996;**

Commission reply

The Commission fully agrees with the stated need to open new delegations in those New Independent States benefiting from Tacis, when there is currently no Commission Delegation. Budgetary constraints render this impossible in the coming year. It should however be possible to strengthen existing delegations to allow them to give greater attention to relations with one or two neighbouring countries. As regards the recruitment of officials on the basis of obligatory mobility, this is made a condition of recruitment with the external services DGs, but necessarily in accordance with the statute of officials.

(Parliament)

- 71. Asks the Commission to pay more attention to the medium-term sustainability of projects when approving them, in particular by making greater demands on beneficiaries in terms of performance, follow-up and the dissemination of results and by linking projects to other forms of support and assistance such as EIB/EBRD loans, finance from local credit institutions, equity participations, etc.;**

Commission reply

The Commission has already addressed this issue of project sustainability. A better choice of the adequate beneficiary in the recipient country should already help the targeted results for every project. Cooperation with EBRD allows some projects to be financed when the technical assistance come to an end and when the beneficiaries start making the subsequent investments. In the framework of cooperation with EBRD, the Bangkok Facility enables Commission funds to be used to assess and prepare investments in viable projects by EBRD. Other Tacis programmes like the ISTC (International Science and Technology Centre), increasingly seek the co-funding of EU industrial or governmental partners to ensure project sustainability.

(Parliament)

- 72. Asks the Commission to produce a global strategic evaluation of the achievements of Tacis so far in political, social and economic (sectoral and macro-economic) terms and to propose strategic targets for the next five years of Tacis; asks that this evaluation be available to the European Parliament before it adopts its opinion on the new Tacis Regulation;**

Commission reply

The Commission is currently preparing to launch a thorough and exhaustive evaluation of the Tacis program and of its performance to date. Given that visits to all CIS countries are needed as part of the study, and given that the selection of a reputable consortium to conduct an independent evaluation takes time, the report will only be available by mid-1997. Tacis is cooperating with the overall evaluation of EU Development Instruments and Programmes, and the methodology of the Tacis Evaluation has been harmonized with that of the overall exercise.

There are already thorough and extensive results from the Tacis monitoring programme. These were prepared in an overall review in November 1995, and are available for consideration by Parliament should it so wish.

The programme of evaluation of Tacis activities, in addition to the overall evaluation of Tacis, is gathering pace. The first country evaluation has now been completed (for Belarus) and it is now intended that this programme, both by country and by programme, should be developed.

(Parliament)

- 73. Expresses its concern as to the threat posed by fraud, especially that committed by organised crime, to the Tacis Programme; stresses the importance of checking the credentials of applicants for Tacis contracts and of monitoring the use to which money is put in the course of the contract; asks moreover that the Commission take a firm line in dealing with allegations of fraud involving its own officials;**

Commission reply

The selection of all projects supported by Tacis is made by DG 1A departments in Brussels on the basis of proposals put forward by the NIS authorities. Furthermore, the tender and contracting process is centralized in Brussels. DG 1A departments are responsible for the drawing up of short lists, the preparation of tender dossiers, the evaluation of bids and the awarding of contracts. Concerning the payment of contractors, it must be stressed that all invoices are checked and payments are made by Tacis headquarters.

The Commission in fact shares Parliament's concern at the threat of fraud to the financing of the Tacis programme, and has taken on itself to carry out several investigations in that area.

The Commission would also confirm that it intends to give careful consideration to all cases in which the finger of suspicion points at its officials or other servants and will, where necessary, take the appropriate steps available to it to penalize improper or fraudulent behaviour.

The financial situation of the companies is taken into consideration when Tacis departments select the contractors.

ADMINISTRATIVE EXPENDITURE

(Parliament)

74. Asks the Commission to report to Parliament in time for the first reading of the 1997 budget on the whole series of measures taken to ensure proper financial and administrative management of the Commission's a) external delegations and b) assets (excluding research);

Commission reply

(a) Management of external delegations

- Rules governing working conditions of locally recruited staff

At the beginning of August 1996 there were 100 delegations with their own local rules. The only ones missing from the list were certain delegations in Central Europe or the former Soviet Union (Albania, the Czech Republic, Georgia etc.) and those where there were special problems as regards either operations (Algeria) or legal status (China, Canada, Japan etc.). Similarly, the local rules for certain Offices where a very small number of officials work (such as Belize and Tonga) are yet to be finalized.

- Special arrangements for administrative and technical staff in certain delegations

The Commission is still giving consideration to the question of introducing special provisions covering local administrative and technical staff of Community origin, in accordance with the guidelines set out by the Court of Auditors. In so doing it will take account of the comment made by the Council on 11 March 1996 when the discharge was granted, calling for a rationalization of personnel management.

- Determination of step on initial classification in grade and reclassification of local staff

The procedure for checking classification as implemented following the Court's comments (see point 13.16 of the Commission's reply) is now operational. The object of it is to oblige local administrators to be more painstaking when giving consideration to the awarding of steps.

- Ongoing inventories of furniture and fittings

- All the delegations have now sent their inventories in to headquarters in computerized form. The figures are being checked before being incorporated into the balance sheet.

- There is now software which enables items worth less than the statutory threshold of ECU 350 to be identified.
- Regular reminders of the writing-off procedures are issued and checks for compliance are made on the spot when inspection teams visit the delegations.

The Commission would confirm, however, that it cannot act on the Court's remark concerning the whereabouts of items in the delegations. To avoid the need to keep updating the inventories, the lists sent to headquarters show what is held in each delegation as a whole, not in each room or premises.

- Service vehicles

- The new rules on the use of service vehicles and private cars on Commission business entered into force on 15 July 1996.
- Tougher checks are being made on overtime worked by drivers. Staff are being encouraged to use alternative methods of transport, such as airport shuttle services.

- Management of annual leave

- Action taken to reduce the number of leave days carried over from year to year has produced encouraging results:
 - carryovers from 1993 to 1994: 240 officials involved
 - carryovers from 1994 to 1995: 275
 - carryovers from 1995 to 1996: 204

The rising curve has now been stopped. Thanks to this step, plus a more binding timetable for forward planning and more thorough analysis of the reasons given for carrying leave days over, the Commission now has greater administrative resources with which to take a firmer grip of leave management.

- There have, on the other hand, been delays in setting up the computerized leave monitoring programme. The system is being reorganized.

- Housing

Most of the agreements with officials occupying housing leased or owned by the Commission have now been signed. The remaining cases are to do with local peculiarities.

- Irregularities

The Commission has reported directly on the action taken on this matter to the rapporteur of Parliament's Committee on Budgetary Control.

(b) Assets management (excluding research)

At the beginning of 1995 the Commission embarked on a programme to overhaul the management of its assets completely, involving drawing up a full inventory of its assets and laying down new rules and management procedures which should make for more effective asset management in future.

1. The inventory of assets was completed in June 1996 and covered all the Commission's movable assets at headquarters offices in Brussels and Luxembourg.

The exercise covered 68 buildings in Brussels and 13 in Luxembourg, where 314 238 and 81 482 items respectively were inventoried. A new identification technique involving the use of barcodes and optical readers was introduced for the first time, to create a computerized inventory which will be faster and more efficient to use in the future.

The rate of statistical error recorded during this exercise was lower than 1°/°, which is regarded as acceptable.

The SYSBIEN inventory database is now being updated using the results of the inventorying exercise. Reconciliation of the data should be completed by 31 November 1996.

In addition to the reconciliation, a series of more restricted inspections involving particular sectors and sites will be carried out, at, for example:

- the Transport Service;
- the Offices in the Union;
- the Commission's offices in Strasbourg.

Some 100 000 dossiers are to be processed by 31 December 1996; the inventory situation will then be such that the control authority can be given true and reliable data regarding the Commission's asset holdings.

2. Managing the inventory is the second stage of the operation.

To ensure that the data from the inventorying exercise remain reliable, the Commission decided:

- to adopt a new Regulation on inventories for its own purposes;
- to amend the principles and procedures for managing the inventory.

The new Regulation on inventories was adopted by the Commission on 21 December 1995. The procedures for applying this regulation are being worked out, and should make it possible for the inventorying of assets to be decentralized from 1 January 1997.

A system of regular inventories will be set up to check that the data held in inventories are reliable, in accordance with the stipulation in the Financial Regulation and elsewhere that inventories should be conducted every three years.

In practice the burden of keeping inventories will be shared by carrying out one or more each month.

(Parliament).

76. Requests the Interinstitutional Committee on Data-processing to carry out a comparative study on Union Institutions' information available on EU data bases with a view to eliminating areas where there is overlap and/or duplication of effort.

Commission reply

Parliament's request for a comparative study of Union data bases has been put before the Interinstitutional Committee on Data-Processing. The study is now at the stage of compiling information about the Union data bases concerned.

ACTION TO BE TAKEN IN RESPONSE TO
THE COMMENTS IN PARLIAMENT'S RESOLUTION
ACCOMPANYING THE DECISION GIVING
DISCHARGE IN RESPECT OF THE ECSC

2. RESOLUTION ON THE REPORT OF THE COURT OF AUDITORS ON THE ACCOUNTS OF THE EUROPEAN COAL AND STEEL COMMUNITY AT 31 DECEMBER 1994 AND ON THE REPORT OF THE COURT OF AUDITORS ON THE MANAGEMENT OF THE ACCOUNTS AND THE FINANCIAL MANAGEMENT OF THE ECSC

POLICY FOCUS

(Parliament)

- 1. Believes that ECSC activities will continue to make a positive contribution to the interests of the coal and steel sectors in the period leading up to the expiry of the ECSC Treaty; asks the Commission, however, in view of the diminishing resources available to finance those activities, to focus on those forms of intervention not available under the EC Treaty, in particular social measures and redeployment aid, and to transfer other activities to the EC forthwith;**

Commission reply

The 1995, 1996 and draft 1997 budgets have made full provision for expenditure on readaptation aid. Moreover, the Commission is proposing in the draft 1997 budget to increase the total funding of the supplementary programme in the coal sector for the period 1994 to 1997 from an initial estimate of ECU 110 million to ECU 132 million to take account of the higher than expected level of demand for the measures concerned. This should ensure that all aid requests are fully met and demonstrates the Commission's commitment to the social measures in the ECSC treaty.

The only social measures for which ECSC aid is no longer available are training and self-employment. These measures continue to be eligible for European Social Fund assistance.

For financial activities by the ECSC in borrowing and lending form, the Commission, since the Treaty is due to expire, adopted *ad hoc* adjustment measures in the communication published in Official Journal C 175 (28 June 1994, p. 5).

The application of these measures had its effect on the volume of ECSC loans paid out in 1995, which fell to ECU 402.8 million in all (compared with ECU 673.4 million in ECSC loans paid out in 1994). In 1995, 64.6% of ECSC loans were for reduced-rate financing of conversion measures entailing new job creation; the ECSC will cease to be involved in such activity after 1997.

THE 1994 FINANCIAL STATEMENTS

- 3. Notes that the amount of the ECSC's outstanding lending accounted for by large exposures to single debtors has risen above the levels envisaged for credit institutions by Council Directive 92/121/EEC; believes that, though this Directive does not apply to the ECSC and the situation is not yet critical, it is indicative of a potential risk to the financial security of the ECSC, especially where large loans are not covered by first-class guarantees; asks the Commission therefore to monitor closely its large exposures as far as possible, making the necessary specific provisions, and to review the target ratios of reserves to outstanding lending in the light of the situation;**

Commission reply

The Commission is responsive to the recommendations put forward by Parliament on the basis of the Court of Auditors' comments.

To be able to evaluate the approach to be adopted to dealing with large exposures more effectively, the Commission felt it needed a certain amount of additional information. The final results of a study carried out by an international consultancy were delivered to the Commission in April 1996 and have already been taken into account in the drafting of the ECSC financial statements relating to management in 1995.

On the basis of the recommendations in the study, the Commission has decided to deal with the question of the concentration of risk on certain loans by setting up a provision to cover large exposures, applying to loans which are not covered by first-class guarantees and on which the outstanding debt exceeds 25% of the ECSC's own resources. The provision, which has been calculated on the basis of the debt outstanding on these particular large exposures at 31 December 1995 and applying the method recommended by the international consultancy, stands at ECU 55 million.

The new provision has been entirely funded from the profit and loss account for the financial year ending on 31 December 1995. The ECSC's solvency ratio is not affected by the setting up of the new provision.

(Parliament)

- 5. Calls attention again to the lack of transparency in the way that buildings are acquired by the ECSC and subsequently transferred to the EC in return for "rental" payments; believes that this arrangement, which in effect subsidises the ECSC at the expense of the EC general budget, should be more explicitly presented in the accounts of both communities, especially the EC;**

Commission reply

The various buildings still owned by the ECSC were in their time made available for use by the European Community by agreement in return for payment of rental, in consideration of the funds invested by the ECSC.

As allowed under these agreements, the general budget of the EC fully refunded the remaining capital due to the ECSC in 1994 and 1995, with a view to the legal transfer of the ECSC's buildings to the EC.

At 31 December 1995 only the legal transfer of the building in Haren had been completed.

As far as the other buildings are concerned, the advances from the European Community, amounting to ECU 7 288 355 in all, are shown as liabilities in the ECSC balance sheet at 31 December 1995, pending completion of the legal formalities for transfer.

SOCIAL AND REDEPLOYMENT MEASURES

(Parliament)

7. **Welcomes the Court of Auditors' finding that ECSC redeployment aid is well-administered by the Commission and the Member States, but asks the Commission to make greater efforts to ensure that Member States' administrations are fully aware of ECSC workers' entitlements from the operating budget and the means of obtaining them;**

Commission reply

Commission services arrange an annual meeting in Brussels, to which representatives of the national administrations are invited, to discuss all relevant aspects of the readaptation aid scheme and missions to the Member States are carried out regularly. National administrations are therefore well aware of the scheme. Readaptation aid has moreover been available for many years and is extremely well known by the social partners in the coal and steel industries. Parliament can be assured that, even if national administrations were somehow unaware of the scheme, they would quickly be informed of it by the social partners when job losses occur in the industries and the need for ECSC assistance arises.

LENDING ACTIVITIES

(Parliament)

8. **Acknowledges that there cannot and should not always be an even distribution of ECSC lending between Member States in any given year; asks the Commission however to ensure that all Member States have equal access to funding and that no perception of unfairness can arise;**

Commission reply

The eligibility of projects for financing is defined on the basis of objective technical rules applicable to all the Member States.

The Commission will continue to do its best to ensure that, as far as possible and in compliance with these objective rules, all Member States have equal access to ECSC lending.

UK PIT CLOSURES

(Parliament)

11. **Accepts that the ECSC will not be able to recover by legal means the interest rate subsidies paid to finance production-enhancing investment in two British coal mines which were closed shortly afterwards; considers it highly unsatisfactory however that a Member State whose explicit policies directly cause the wastage of ECSC funds should be under no obligation to make good this wastage; asks the Commission to put this point to the UK Government.**

Commission reply

Parliament's comment relates to the last three loans given to the British Coal Corporation by the ECSC between 1989 and 1991.

The Commission would remind Parliament that the three loans were intended to finance investment in 15 different coal mines, of which only two (Lea Hall and Frickley) were closed. Of a total of ECU 12 177 078 in interest rate subsidies decided on for projects to be carried out at the 15 sites covered by the ECSC loans, the subsidies actually paid to the British Coal Corporation on the three loans came to only ECU 7 454 428.

The Commission therefore decided not to pay ECU 4 722 650 of the subsidies originally approved. The sum withheld takes account of all suspensions of activity associated with the privatization process and includes the portion of the subsidies corresponding to planned investment in the two mines which were then closed. The British Coal Corporation, as a State-owned company, was officially informed of the move.

Having regard to this result and to contractual commitments to the British Coal Corporation, the Commission believes it has taken the proper steps to protect the general interest of the ECSC. The Commission does not therefore think it advisable to raise the matter with the UK Government at a later time.

ACTION TO BE TAKEN IN RESPONSE TO
THE COMMENTS IN PARLIAMENT'S RESOLUTION
ACCOMPANYING THE DECISION GIVING
DISCHARGE IN RESPECT OF THE
EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND
WORKING CONDITIONS
FOR THE 1994 FINANCIAL YEAR

3. DECISION GIVING DISCHARGE TO THE ADMINISTRATIVE BOARD OF THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS (DUBLIN) IN RESPECT OF THE IMPLEMENTATION OF ITS BUDGET FOR THE 1994 FINANCIAL YEAR

(Parliament)

- 2. Recommends again the appointment of a part-time financial controller for the Centre, working under the Commission's financial controller, as a means of reducing the excessive recourse to imprest accounts; suggests that this reform be introduced across the board as part of a general review of the financial regulations applying to all the external agencies of the European Union;**

Foundation reply

In principle, the Foundation supports the proposals of Parliament. However, its implementation may prove difficult because the work involved would probably, on average, not exceed a few hours per week.

An alternative approach to this problem would be for the Foundation's Administrative Board to nominate the Financial Controller. This procedure would require action by the Commission to provide an amendment to Article 19 of the Foundation's financial regulation (Council Regulation (EEC) no. 1417/76 of 1 June 1976 as amended by Council Regulation (EEC) No 1949/93 of 30 June 1993.

A further alternative would be to amend Article 43 of the Foundation's financial regulation in order to make explicit provision for usage of the imprest account at a level commensurate with optimal efficiency and in the context of regular visits by the Financial Controller. In practice the imprest account is used for expenditure covered by provisional commitments and, in accordance with the implementing rules relating to Article 54, these commitments are strictly for current expenditure.

However, modern audit accounting techniques enable such bodies to be effectively controlled. More particularly, the forthcoming introduction of a new computerized accounting system common to all the decentralized agencies or bodies, linked directly to Financial Control in the Commission, will enable prior control of commitments and payments to be carried out in real time, without having to send out DG XX staff. These measures will cut the cost of dispatching dossiers to the absolute minimum and will mean that the use of the imprest account can be gradually reduced.

(Parliament)

- 3. Calls on the Management Board of the Foundation to respect the terms of the its financial regulation in respect of transfers of appropriations;**

Foundation reply

The problem relating to transfers is caused by an anomaly in the Foundation's financial regulations where, under Article 15, provision is made for the Foundation's budget to be subdivided into titles, chapters, articles and items, whereas Article 21, paragraph 1

indicates that the budget shall only be classified by chapters and articles and that transfers may be effected from one chapter to another.

Prior to 1994 this anomaly caused no problems as the budget was classified only by chapters. From 1994, in response to a recommendation of the Court of Auditors, the budget was reclassified so that what were previously "chapters" became "titles".

It is understood that there is no fundamental reason why transfers between titles of the Foundation budget should not be permitted, and indeed it is in the interest of sound financial management, that such transfers are necessary. The Commission is giving consideration to taking appropriate action to amend the Foundation's financial regulation to provide the necessary consistency.

(Parliament)

- 4. Asks the Foundation to review its policy on holding large cash balances, and in future to draw down its subsidy from the Commission in a manner more closely related to its actual need to carry out expenditure;**

Foundation reply

In line with past recommendations of the Court of Auditors, the Foundation has, in recent years, requested payments of its subsidy to cover commitments rather than cash needs for the financial year. This has resulted in cash balances arising at the year end which were surplus to operational requirements. The procedure will now be revised to ensure that subsidy requests are on the basis of actual cash requirements.

(Parliament)

- 5. Continues to consider it essential to avoid overlap between the activities of the Foundation and those of the Commission and other Community bodies with closely related mandates; notes the Commission's willingness to report to the European Parliament on the integration and organisation of Union activities in the fields concerned, and to present proposals, as appropriate, aimed at ensuring greater complementarity and cost-effectiveness; again asks it therefore to do so;**

Foundation reply

The report referred to is in course of preparation;

It should be noted that the Foundation's work programmes are established by the Administrative Board in agreement with the Commission. During the preparation of these programmes the services of the Commission examine the proposals to ensure the complementarity of work and to avoid duplication.

(Parliament)

- 6. Looks forward to the definitive resolution of the long-standing difficulties relating to the ownership of the land occupied by the Foundation; asks the**

Foundation to inform the European Parliament as soon as the legal formalities for the acquisition of the leasehold of the land have been completed;

Foundation reply

Parliament will be informed as soon as the legal formalities relating to the lease are completed.

ACTION TO BE TAKEN IN RESPONSE TO
THE COMMENTS IN PARLIAMENT'S RESOLUTION
ACCOMPANYING THE DECISION GIVING
DISCHARGE IN RESPECT OF THE
EUROPEAN CENTRE FOR THE DEVELOPMENT OF
VOCATIONAL TRAINING
(CEDEFOP)

4. RESOLUTION OF THE EUROPEAN PARLIAMENT INFORMING THE MANAGEMENT BOARD OF THE EUROPEAN CENTRE FOR THE DEVELOPMENT OF VOCATIONAL TRAINING (CEDEFOP) OF THE REASONS WHY THE DISCHARGE CANNOT AT PRESENT BE GIVEN IN RESPECT OF THE IMPLEMENTATION OF ITS BUDGET FOR THE 1994 FINANCIAL YEAR

(Parliament)

- A. whereas CEDEFOP represents an instrument of Community policy, and its activities must contribute to the wider pursuit of that policy,**
- B. whereas CEDEFOP has relocated from Berlin to Thessaloniki without any resolution as yet of the staffing problems arising from this move,**

Commission reply

Under the existing regulations, a framework agreement on social measures relating to the relocation of CEDEFOP to Thessaloniki was reached between CEDEFOP management and staff. This agreement made the transfer socially acceptable and was approved by CEDEFOP's Management Board on 27 January 1995. A system of voluntary early retirement for 17 people at the Centre (aged over 55 and with ten years' service, or aged over 50 and with 15 years' service) is not part of the framework agreement, but there were great hopes that it would be introduced. Any such proposal must be looked at in the light of the decision by the Council of the European Union on 17 November 1995 to confine voluntary redundancies to Parliament.

Since 1 March 1995 CEDEFOP staff have been subject to the Staff Regulations of Officials and Conditions of Employment of other servants of the European Communities.

The CEDEFOP Management Board has granted staff (apart from management and new staff) the status of Community officials, established following a competition based on qualifications followed by the regulation probation period. Staff at the Centre have become officials.

(Parliament)

- 1. Notes that CEDEFOP's current staffing situation seriously compromises the efficient accomplishment of its work; notes furthermore that no satisfactory resolution of this problem is yet in sight;**

Commission reply

The CEDEFOP Management Board has instructed the Director of the Centre to take steps to have staff with valid reasons for not being able to move to Thessaloniki with the Centre detached or seconded to national, international and Community bodies and departments. Officials who cannot leave Berlin may thus stay on for a period of at least six months, corresponding to one month for each year or part of a year served with the Centre. They are paid by CEDEFOP.

The Centre and the Commission have done all they could for CEDEFOP staff to help them find legal and practical solutions to their concerns. The institutions have even anticipated the amendment to the Staff Regulations allowing mobility under Article 29(1)(c).

(Parliament)

- 3. Reserves its discharge decision until such time as the European Parliament can be satisfied that the management strategies, working conditions and activities of CEDEFOP are such as to ensure:**
- (a) value for money for the budgetary expenditure used to support CEDEFOP,**
 - (b) efficient use of human and other resources,**
 - (c) products of quality which respond to the needs of CEDEFOP's clients,**
 - (d) a clear and coherent role within the policies of the European Community on vocational training.**

Commission reply

Following the thorough audit of the accounts by the Court in 1993, the report on 1994 is shorter and more positive. Since the Centre was transferred to Thessaloniki (the new management made moving a priority), the CEDEFOP has resumed its work in Greece. The 1995 annual report discusses production and performance.

Results have in fact been positive and in certain cases (e.g. the translations of the Review) the delays have been made up. The study visit programme (a task of the Centre under the Leonardo programme) has run smoothly, with more than 540 people taking part.

Aside from the social measures (which had to be taken because of the transfer and were paid for from the Centre's budget), decisions have been taken at each meeting of the Management Board since March 1996 to make the Centre more cost-effective; there has already been an improvement, despite the tight staffing in Thessaloniki.

These decisions on revitalizing the Centre, setting medium-term priorities and raising the standard of services should soon start showing results. CEDEFOP's tasks and the part it plays are not changing: it provides technical and scientific back-up in relation to the development of vocational training in the European Union. Vocational training, on the other hand, is playing an increasing role, as background developments show: the Treaty of Maastricht, the Leonardo da Vinci programme, changes in industry, the White Papers on growth, competitiveness and employment and on the learning society, and the wide range of decisions taken by European Councils since Essen.

CEDEFOP is therefore developing so that it can deal effectively with the challenges it is having to face.

**II. ACTION TAKEN ON THE COMMENTS ACCOMPANYING THE COUNCIL
RECOMMENDATION ON THE DISCHARGE TO BE GIVEN IN RESPECT
OF THE 1994 FINANCIAL YEAR**

CHAPTER 1 OWN RESOURCES

(THE COUNCIL)

1. BUDGET IMPLEMENTATION AND FINANCIAL MANAGEMENT

In the area, in particular, of the provision to the Community budget of the established entitlements, the Council would encourage the Commission to pursue its efforts at coordination with the national administrations. It shares the Court's view of the need to step up the use of monitoring programmes and risk analysis systems in accordance with the Commission's guidelines.

Commission reply

The guidelines worked out by the Commission in the form of a guide to risk analysis in customs controls were approved by the Member States' representatives meeting in the Customs Policy Committee on 9 and 10 February. Recently, in cooperation with the Member States, procedures were set up to amend the guidelines in certain areas of customs control identified as being particularly sensitive. The Commission also uses risk analysis techniques when selecting the subjects to be checked in the annual own resources control programme.

(THE COUNCIL)

2. MUTUAL ASSISTANCE IN COMBATING CUSTOMS FRAUD

In this area and in particular with regard to the monitoring of recoveries, the adjustment of customs legislation and Commission supervision of national recovery instruments, the Council anticipates a stepping up of collaboration between the national administrations and the Commission thanks in particular to the implementation of the amended Regulation No 1552/89; regarding the financial impact of the legislation, the Council agrees with the Court and the Commission, and would like the latter to propose revision of the legislative texts.

Commission reply

The monitoring of the Member States' action to recover traditional own resources, particularly those affected by fraud and irregularities, as advocated by Regulation No 1552/89, has been carried out by setting up a method of sample monitoring of difficult recovery cases up to final clearance. "A" samples relate to notifications of fraud involving more than ECU 500 000 in own resources, while "B" samples relate to notifications under the mutual assistance system involving sums of more than ECU 1 000 000.

The "A" sample for 1994 (A/94) included about 100 cases of this type, the aggregate amount accounting for 70% of the base still to be recovered. The national government departments were questioned about the cases concerned and reported on progress with recovery.

The Commission gave a presentation of this method of monitoring in its first report on the A/94 sample sent to the Council and Parliament on 6 September 1995.⁵

The object of Stage III of the sound and efficient financial management project (SEM 2000) is to create optimum conditions for close cooperation between the Member States and the Commission in supervising national recovery instruments, in both qualitative and quantitative terms. In this context the Council, on 8 July 1996, adopted Regulation No 1355/96 (OJ L 175, 13.7.1996) amending Regulation No 1552/89. Among other things, the new regulation provides for the Commission to be given more information about fraud cases and irregularities, and it entered into force on 14 July 1996.

As the Commission has stated in its reply to the Court's comments, it is, together with the Member States, looking into whether the Member States actually apply the prescribed penalties for failure by economic interests to apply the customs rules, and if necessary it will put forward legislative proposals. In addition, as part of the work on Stage III of SEM 2000, the Commission, together with the Member States, is currently examining ways of giving greater force to the Member States' financial accountability by laying down a number of financial penalties for failure to apply the relevant financial rules.

(THE COUNCIL)

3. COMMUNITY TRANSIT ARRANGEMENTS

The Council notes that the European Parliament, referring to the provisions of the TEU, has just set up a temporary Committee of Inquiry into Community transit arrangements. It also notes the Court's remarks on the application of the transit arrangements in the Member States; it considers that these remarks reflect the urgent need to strengthen the system and welcomes the Commission communication; it also takes note of the replies from the Commission and the Member States on the procedures initiated in the cases referred to by the Court in its report; it invites the Commission to take account of these remarks and of the outcome of the proceedings of the ad hoc Working Party, in drawing up future legislative proposals.

Commission reply

The Commission communication on combating fraud in relation to the transit arrangements, which was adopted on 21 February 1996 and was officially transmitted to the Council on 8 May 1996, lists a number of steps which the Commission regards as essential if fraud is to be combated more effectively and more of the sums owing to the Community and nationally are to be recovered. Some of the measures set out became applicable at the beginning of April 1996. Others have been proposed, but adopting them creates certain difficulties for the Member States. For instance:

- The draft provision setting the global guarantee at 100% of the duties and levies concerned did not win the assent of the Customs Code Committee, Transit Section. Nevertheless, on 15 July 1996 the Commission presented a proposal on this measure to the Council in accordance with the third paragraph of Article 249 of the Customs Code.

⁵ COM(95) 398.

- In the same way, the proposals for adoption, under the common transit arrangements, of measures similar to those adopted at the Community level in respect of guarantees did not receive the assent of the EC-EFTA working party. Proposals for appropriate measures, designed to mesh the two transit arrangements together in a coherent whole, will be put before the Joint Committee at the meeting scheduled for the beginning of December 1996.

The other measures proposed in the communication are currently being considered by the Transit Task Force which has been set up within the Commission and whose assignment is to conduct an overall analysis of the transit rules. As soon as the interim report by the Task Force has been adopted by the Commission, it will be sent to the other institutions for consultation; they may put forward any comments and suggestions with a view to the drafting of the final report, which will contain the Commission's proposals for measures to overhaul the transit system and will be adopted in February 1997.

As for the Court's comments on the external transit system, the Commission is taking appropriate financial and regulatory action on them.

(THE COUNCIL)

4. VAT ON COMMUNITY TRADE

The Council supports the viewpoint of the Court and the Commission and, like the Court, invites the Commission to monitor carefully the development of VAT revenue in order to detect any problems linked with the transition from the current to the final arrangements.

Commission reply

The Commission has taken steps to improve the transmission by the Member States of information on VAT and excise revenue and thus enable it to follow the development of revenue in the Member States more effectively. At the meeting of Deputy Directors-General for indirect taxation which took place on 12 December 1995, the Commission urged the Member States to set up an automatic mechanism for the transmission of such information. The Commission proposes to hold bilateral discussions with the Member States for this purpose and to give detailed consideration to the information available.

(THE COUNCIL)

5. GROSS NATIONAL PRODUCT

The Council takes note of the conclusions of the Court and invites the Commission to continue its statistical work with a view to ensuring the exhaustiveness and comparability of national GNPs, given the increasing relative importance of this resource in the financing of the Community budget. In addition, it stresses the need to improve the GNP own resources forecasting system and the application of that system by the Commission.

Commission reply

Report COM(96) 124 on the effective degree of harmonization of national GNPs was adopted by the Commission on Wednesday, 27 March 1996 and sent to the Council and Parliament on 28 March 1996. The report shows that progress has been made on many fronts. The most important gaps in estimates of Member States' GNPs have already been filled or should be filled shortly. The estimates of Member States' GNPs are therefore more complete, reliable and comparable than they were before.

Given the problems remaining, however, there is still a great deal of progress to be made. The main problem is the exhaustiveness of GNP estimates. The others relate to:

- a series of across-the-board problems, i.e. points which need to be checked or improved by all the Member States: for instance, the transition from GDP to GNP, the processing of housing services and the handling of financial institutions;
- a series of problems specific to particular countries: for instance, certain problems connected with compliance with the rules of the European System of Accounts (ESA) and the application of the rules on territoriality.

Much of this work should, if all goes well, be completed by October 1997; whatever happens, the whole of it, including the work on exhaustiveness, should be finished by October 1998.

CHAPTER 2

EUROPEAN AGRICULTURAL GUIDANCE AND GUARANTEE FUND, GUARANTEE SECTION (EAGGF GUARANTEE SECTION) The common market organization (CMO) in fruit and vegetables.

(THE COUNCIL)

The Council entirely shares the view that the operation of the management and control system and of the PO system should both be strengthened, in order to enable them to carry out effectively their task of managing the market in this sector.

It stresses the importance it attaches to the control and reduction of structural surpluses in the main producer Member States, and hopes that the new Regulation will be implemented as soon as possible.

It asks the Commission to assess the intervention arrangements of the CMO, once the reform has been fully implemented, and calls for products withdrawn from the market to be put to better use.

The Council considers that the application of Regulation No 729/70 on the EAGGF Guarantee Section, as last amended by Regulation No 1287/95, should, where appropriate, make possible the recovery of overpayments.

Commission reply

In carrying out the planned checks in the area of the COM in fruit and vegetables, Commission departments will take care to check that the management and control system, including that relating to professional organizations, is working.

Once the investigations are complete, an evaluation of the COM intervention arrangements will be carried out. This will also be an opportunity to clear the accounts, when payments made for failure to apply the rules correctly will be recovered.

In the COM in fruit and vegetables approved by the Council in July 1996 there is provision for setting up a body of inspectors especially for that particular COM.

CHAPTER 3

COMMON POLICY ON FISHERIES AND THE SEA

(THE COUNCIL)

The Council considers that the Commission must continue its action to improve the administration of this aid, in particular by stepping up its checks in the Member States, after which it will report back in the context of the follow-up action in response to the Recommendation. In addition, it should examine in partnership with the Member States concerned the adjustments which need to be made to the legislation, particularly those relating to the checks to be carried out in tuna-processing canning factories situated in a Member State other than that in which the compensatory allowance was paid to the producers.

Commission reply

As stated during the discussions, "the Commission does ... share the Court's wish, firstly, to make checks on the Community origin of the tuna more efficient, for which purpose a new verification document will be drawn up following a recently adopted amendment, and, secondly, to examine with the Member States concerned the necessary improvements to the application of this legislation and to its monitoring."

The new document referred to above was introduced by Commission Regulation No 482/96 of 19 March 1996 (OJ L 70, 20.3.96). The Commission also scheduled a series of on-the-spot inspection missions to the Member States directly concerned by the compensatory allowance payments (Spain in April and June 1996, Portugal in May 1996 and France in October 1996). These were to be the occasion for an analysis of the legal arrangements in force. In the light of the findings from these inspections, the Commission will make proposals for any regulatory and administrative improvements which may be necessary.

As regards the inspections to be carried out in tuna-processing canneries situated in a Member State other than that in which the compensatory allowance was paid, the subject will be discussed during the on-the-spot missions. They have been planned in such a way as to cover the major sites for unloading and use (in Galicia, the Azores and Brittany). Contacts are under way with a view to organizing a mission to Italy.

CHAPTER 4

REGIONAL SECTOR

(THE COUNCIL)

1. BUDGETARY AND FINANCIAL DATA

The Court notes in particular a rate of implementation of the final overall budget of the Structural Funds in terms of payment appropriations which is deemed rather low; moreover, the excessive concentration of commitments and payments at the end of the financial year increased further.

The Council stresses the existence of a recurrent problem in this area, which should be faced up to. It feels that the new rules governing the Funds provide the appropriate context for improved expenditure planning; this should help to reduce significantly the current concentration of a large proportion of payments at the end of the financial year.

Commission reply

The incidence in time of Commission financial operations basically reflects the progress of operations on the ground in the Member States and the timing of the receipt of Member State expenses declarations. Article 19(3) of Regulation (EEC) No 4253/88 requires the Member States to submit payment requests in accordance with a "balanced schedule" throughout the year. The Commission exercises no direct control over the rhythm at which the Member States forward such requests: these usually reflect national administrative practices and financial years.

The problem of the concentration of financial operations at the end of the financial year is being addressed in the framework of the exercise "SEM 2000 phase III".

It should be noted that the situation improved in 1995, despite the late adoption of certain Community Initiative programmes and the modification of the financial plans of a number of existing programmes in the latter part of the year.

(THE COUNCIL)

2. REVIEW OF THE REFORM

It stresses the importance of greater collaboration between the competent national authorities and the Commission departments concerned; it is necessary to avoid at all costs confusion about the division of tasks and responsibilities between national and Community operators.

Commission reply

At a general level, the division of responsibilities is quite clear - the Member States are responsible for managing projects in such a way as to ensure that Community law is respected and financial errors and irregularities minimized. The Treaty (Article 205) gives the Commission ultimate responsibility for the execution of the budget.

At the level of practical implementation the Commission is aware that in certain areas some confusion may exist. At the informal meeting of Ministers responsible for regional policy in Venice, in May 1996, Ministers agreed on the need for this question to be addressed in the context of "effectiveness, control and simplification" and in the light of the principle of subsidiarity and the division of tasks between the Commission and the Member States.

(THE COUNCIL)

4. PUBLIC CONTRACTS

The Court remarks that not all the Directives on the transparency and opening up of public contracts have been satisfactorily transposed into provisions of domestic law adopted by each Member State and that in practice application remains limited. The Commission only proceeded very late with checking the operation of the system for monitoring compliance with the rules on public contracts.

The Council invites the Commission to take all due care to ensure that all the operators concerned receive the necessary information and that the application of Community Directives in the implementation of each operational programme is strictly monitored.

Commission reply

The primary responsibility for ensuring compliance with Community legislation in respect of public procurement lies with the Member States. The programming documents granting Structural Fund assistance for the period 1994-99 stipulate the following provisions for reinforcing control of compliance with public procurement requirements:

1. Pursuant to Article 25(6) of Regulation (EEC) No 4253/88, notices sent for publication in the Official Journal of the European Communities pursuant to those directives must specify the projects in respect of which Community assistance has been applied for or granted.
2. Applications for assistance in respect of the major projects referred to in Article 16(2) of Regulation (EEC) No 4253/88 must include a complete list of contracts already awarded and the relevant written reports when these are required under the public contracts directives. An updated version of this information is to be sent to the Commission with the application for payment of the balance for contracts awarded in the meantime.

In the case of other important projects (in particular those included in operational programmes and forming part of structures whose total value is above the thresholds for major projects), the written report on each contract awarded, when provided for in the public contracts directives, shall be made available to the Monitoring Committee and sent to the Commission if it so requests.

(THE COUNCIL)

5. ENVIRONMENT

The Court considers that the slow and incomplete transposition of Community environmental Directives into national law and their poor application is extremely harmful. It emphasizes the need to make provision for environmental impact studies in the context of any evaluation exercise prior to the completion of the programmes co-financed by the ERDF.

The Council reiterates its appeal to the Commission and the Member States to ensure that the legislation in this area, which is now clearer and more effective, is applied and that compliance is strictly and continuously monitored at all stages of implementation of the action financed by the Structural Funds.

Commission reply

The Member States bear the primary responsibility for ensuring compliance with Community environment law by operations cofinanced by the Structural Funds. The Commission will intensify its efforts in the Monitoring Committees to develop and make use of project eligibility and selection criteria which reflect sustainable development. However, as the Structural Funds are implemented by national legislation, the Commission cannot insist on the use of specific environmental indicators or selection criteria.

As regards the prevention of infringements of environmental rules, the Commission will seek to play a more active role, including, where appropriate, requiring the reimbursement of Community funds under Article 24 of Regulation No 4253/88. It is essential that the Commission is swiftly supplied with all necessary information by regional or national authorities as well as non-governmental organisations.

In addition, active participation by national or local environmental authorities in the Monitoring Committees in managing programmes which are "sensitive" from an environmental point of view also contributes to ensuring compliance with environmental legislation in Structural Funds interventions.

(THE COUNCIL)

6. OVERALL SUBSIDIES AS AN INSTRUMENT OF LOCAL DEVELOPMENT

The Council considers that the Commission should make more effort to clarify the role and operational procedures of the intermediary bodies in the administration of the overall subsidy granted by the Structural Funds. The Commission should also step up monitoring and follow-up action. The use of this instrument can be judged to be satisfactory only if stringent financial control of the operations reveals greater cost-effectiveness and less risk of irregularity than those found by the Court.

Commission reply

The Commission considers that clear guidelines are supplied by Article 6(1) of Regulation No 4254/88 with regard to defining the role and functioning of the intermediary bodies.

It emphasizes that it is for the Member States, in agreement with the Commission, of course, to designate the intermediary bodies. These, particularly in view of their subsidiary financial accountability in respect of the management of Community funds, then bear the primary responsibility for the proper application of the guidelines, which are, moreover, set out in the guide to overall subsidies produced by the Commission.

With regard to the monitoring and follow-up of overall subsidies, these operations are carried out just as strictly as for other forms of intervention. The Commission notes that the Court of Auditors has found no major irregularity in this area.

(THE COUNCIL)

7. COMMUNITY INITIATIVE CONCERNING INTER-REGIONAL AND CROSS-BORDER COOPERATION (INTERREG)

The Court notes that this initiative has to a large extent been implemented through operational programmes which are not always appropriate to its cross-border nature. The difficulties encountered in its administration prevent any conclusive evaluation of the impact of the programmes financed or verification of their complementarity with other action.

The Commission admits the administrative complexity and the problems it had to face. It has taken the necessary measures to broaden the scope and to clarify with the Member States involved the concept of the cross-border nature of the operations.

The Council invites the Commission to continue its efforts to increase the effectiveness of this initiative.

Commission reply

During the negotiations on the Interreg IIA operational programmes before they were approved by the Commission, the Commission made special efforts, notably by referring to the sound practice already established in some border regions and stressing the political importance of a genuine, shared cross-border approach, to ensure that the cross-border cooperation measures and provisions were satisfactory. Furthermore, as a means of supporting the implementation of this particular Community initiative, the exchange of experience between border regions and action to build on and disseminate sound practices, the Commission granted financial support under Article 7 of the ERDF Regulation to the Association of European Frontier Regions, to help it carry out an operation involving technical assistance and promoting cross-border cooperation in relation to the Community Interreg II initiative as a whole.

(THE COUNCIL)

8. FOLLOW-UP, MONITORING AND EVALUATION

The Court, while recognizing the efforts made inter alia in clarifying the texts concerning this area, stresses the need to improve and strengthen evaluation at all stages, in particular at the preparatory level and when the implementation reports are drawn up.

The Council stresses the fundamental importance of *ex ante* evaluation with a view to ensuring efficient implementation of the Structural Funds, and invites the Commission to take full account of the Court's remarks in implementing its programme.

Commission reply

Within the Structural Fund framework, the Commission has taken increasing steps to carry out evaluation, with three basic priorities:

1. More effective supervision of the evaluation process, to ensure and enhance standards. Four lists of technical specifications on questions relating to evaluation have been produced for this purpose and widely distributed to the various bodies involved, both within government departments and outside (various experts and consultancies).

Work is under way on drawing up a framework of reference for *ex post* and *ex ante* evaluation, standardized indicators and more effective assessment of the impact on employment.

2. To promote a culture of evaluation. The Commission organized a conference on evaluating structural policies in November 1995, mobilizing some 250 national and regional partners directly or indirectly involved in evaluating structural policies. A conference on the more technical aspects was held in December 1996.
3. At the operational level, the Commission has carried out a comprehensive evaluation of economic and social cohesion, of which the structural policies form the centrepiece. This led to the publication of the first Cohesion Report produced by the Commission pursuant to Article 130B of the Treaty.

With the national and regional authorities, the Commission has set up the structure for intermediate evaluations on the activities under way in respect of the 1994-99 period.

Having regard to the decisions to be taken on the new Objective 2 programming, the Commission has on its own initiative carried out an *ex post* evaluation of operations cofinanced under Objective 2 for the 1989-93 period.

The Commission emphasizes its attachment to the idea of evaluation but draws attention to the constraints upon such operations, given the limits on the quality and quantity of data produced at the regional and national levels.

CHAPTER 5

SOCIAL SECTOR, STIMULATION OF UNDERTAKINGS (SMEs) AND TRAINING

(THE COUNCIL)

1. MANAGEMENT OF THE EUROPEAN SOCIAL FUND (ESF)

The Council recognizes the importance of the problem of overcommitment of the Social Fund, which is tending to become recurrent; it invites the Commission to apply the financial legislation in force rigorously in order to ensure that budget implementation is consistent with programming and the availability of appropriations.

With regard to Community initiatives, the Council considers it advisable to ensure an operational separation between the management and control roles and tasks within the Commission, while ensuring full and effective coordination at all levels. Internal measures to improve the management of the Fund should be taken in a consistent manner and according to a precise timetable.

Commission reply

The Commission acknowledges that it is important to guarantee that the management and control functions within its departments remain separate. As part of the SEM 2000 operation, DG V's organization chart was modified on 17 July 1996 to establish a Resources Directorate combining responsibility for allocating and managing human and financial resources, auditing, monitoring and evaluation. This new body has been in operation since 1 September 1996. The new auditing and control unit, separated off from the financial unit, now carries out across-the-board checks on all DG V activities (including non-ESF activities).

(THE COUNCIL)

2. Small and medium-sized enterprises (SMEs)

The Council considers it necessary to apply uniformly a definition which closely matches the reality of the situation, with the use of precise criteria. Action on behalf of SMEs should be redirected to take account of their actual requirements. The access of these enterprises to existing instruments should be improved and efforts made to arrive at a better assessment of the means used and results attained in respect of Community action in this area.

Commission reply

The Commission shares the Council's view as to the importance of clearly defining SMEs and therefore adopted a recommendation to the Member States (OJ L 107, 30.4.96) which makes all Community programmes and instruments subject to the same set of rules as regards defining SMEs, small enterprises and micro-enterprises. The recommendation lays down precise criteria in terms of numbers of employees, capital base and company independence, so that action to support SMEs can be focused on enterprises which

because of their size are genuinely in need of special measures. This recommendation should make it possible to make programmes and measures to aid this type of enterprise more consistent and visible, thereby facilitating access to such programmes and enhancing their efficiency.

The Commission can only share the Council's view as to the usefulness of orienting action to help SMEs within the European Social Fund framework more effectively, while pointing once again to the decisive part the Member States themselves play in defining such action.

The Commission is, however, particularly sensitive to the need to improve access to the existing instruments for SMEs; to bring this about, as part of the recent reorganization of the Directorate-General responsible for the policy to help SMEs, it set up a unit to carry out that task, among others, within a new directorate.

The recommendation cited above lays down that the Member States and Commission departments should take the requisite steps to adapt the statistics that they produce in line with harmonized size-classes reflecting the thresholds chosen for defining SMEs, small enterprises and micro-enterprises. All the Directorates-General have been advised that they must adopt their statistical data bases so that all instruments and programmes involving SMEs can be more effectively coordinated and progress evaluated in the next Commission report on the coordination of activities to help SMEs and small craft industries.

(THE COUNCIL)

3. SOCIAL DIALOGUE

The Council feels that action to promote social dialogue should be better targeted and stresses the need for strict monitoring of the positive initiatives benefiting from Community financing.

Commission reply

To ensure better targeting of action, the Commission has included cost-effectiveness and European added value among the criteria for assessing applications submitted to it for assistance under the budgetary headings relating to social dialogue. With regard to monitoring, the Commission has carried out several on-the-spot inspections on recipients of grants and proposes to carry out further missions of this type.

CHAPTER 6

FINANCIAL INSTRUMENTS FOR THE ENVIRONMENT: "LIFE" AND ITS PREDECESSORS

(THE COUNCIL)

Commission reply

The Council notes that the first phase of the programme was characterized by a lack of rigour in the selection and management of certain projects; the financial implementation was delayed to some extent and the financial audit was also inadequate. It considers that the Commission should apply stricter and more selective criteria and increase the control and monitoring of the projects carried out.

The Council acknowledges the Commission's efforts to make the necessary improvements in the context of the new LIFE II programme; it also stresses the need for appropriate dissemination of the results obtained to the authorities involved at every administrative level in the Member States.

The Commission would stress that the selection procedures for LIFE projects were thoroughly overhauled and improved as part of the implementation of LIFE II.

An informative booklet is widely distributed each year; this gives full details of the selection procedure and the criteria applied. All projects, too, are considered by a Management Board consisting of representatives of the Member States. The Committee adopts an opinion before the Commission embarks on its decision-making procedure.

The facilities offered by the new regulation mean that the technical and financial follow-up of projects under way will be further strengthened in the case of the LIFE II programme.

An auditing unit which has been fully operational since the beginning of the 1996 financial year is now responsible for *ex post* evaluation of projects. A preliminary evaluation of the LIFE I programme was submitted to the Council and Parliament in November 1995 when the regulation was revised.

As soon as the LIFE I projects are closed, at the end of 1998, a final evaluation will be carried out and the results circulated to the institutions, the Member States and the parties concerned.

CHAPTER 8

FINANCIAL INSTRUMENTS AND BANKING ACTIVITIES

(THE COUNCIL)

1. NCI LOANS AND INTEREST SUBSIDIES IN THE EARTHQUAKE-DAMAGED REGIONS OF ITALY

The Court of Auditors examined more closely two operations (concerning industrial areas and schools) and considers that the objectives of these two operations, in particular job-creation, have not been completely attained.

The Council, confining itself to the aspects relating to the budget discharge, invites the Commission to improve coordination of its actions with the local authorities in the future.

Commission reply

As the Commission's preliminary replies made clear, the number of jobs involved was not a condition of the loan but a target. It was not fully achieved, for a wide range of reasons over which the Commission had no control, such as developments in the overall economic situation. The Commission does, nevertheless, share the Council's concern that its actions should be better coordinated with the local authorities in the future.

(THE COUNCIL)

2. EUROPEAN INVESTMENT FUND

The Court of Auditors considers that it is its duty to examine the EIF accounts.

The Commission is taking steps to arrive at a result satisfactory to all the institutions concerned.

The Council takes note of these remarks and anticipates a swift solution to the problem.

Commission reply

The discussions between the institutions and bodies concerned regarding the procedures for the monitoring by the Court of Auditors of Community participation in the European Investment Fund have not yet produced a final result. However, the Commission is sparing no effort to ensure that agreement is reached as swiftly as possible.

CHAPTER 9

RESEARCH: Human capital and mobility programme

(THE COUNCIL)

The Court observes that there have been considerable delays in implementing some aspects of the programme. Coordination between the different DGs responsible for implementing the various parts of the programme has not been sufficient to ensure support for the projects which, overall, are the most deserving.

The Court also notes that a large number of grant holders have benefited from support from the programme in circumstances which do not guarantee an increase in mobility. The participation of industrial research laboratories has proved inadequate; in addition, it has not been possible to show that the programme has contributed to the promotion of the objective of cohesion.

The Council shares the concerns expressed by the Court.

The Council notes, however, that the Commission has learned from the experience and has made considerable improvements. It stresses the need to ensure full and consistent management of the programme by the Commission's own means and optimum coordination between the departments concerned.

Commission reply

The Commission would point out that as part of the 1994 annual report procedure it replied point by point to the Court's comments to which the Council refers. This notwithstanding, it has indeed, as the Council stresses, learned from the experience it acquired in implementing the special human capital and mobility programme, making considerable improvements in the field covered by the programme. These improvements were carried out with greater effectiveness in the adoption and implementation of the special programme in the field of the training and mobility of researchers which followed on from the human capital and mobility programme. The measures adopted in the programme in question included:

- stricter rules on applying the criterion of mobility. However, the factors designed to facilitate the incorporation of the applicant grant holder into its forthcoming induction laboratory were taken into account, as with the human capital and mobility programme;
- regular exchanges of information with other Commission departments running training activities were stepped up as a particular priority, especially as the rules governing grants for training by research are applied uniformly to all the Commission DGs awarding such grants;
- industry participation in implementing the programme was stepped up (with more industrial researchers on the various project evaluation panels, the industry component being taken into account during project selection and the setting up of a working party to study industry participation in the programme);

- the cohesion principle was more effectively applied, in that, in addition to a strengthening of the measures laid down and successfully implemented in the course of the human capital and mobility programme, a working party was set up to look into the involvement of the less favoured regions in the programme. A preliminary report and recommendations by the working party were submitted to the programme committee on 23 February 1996.

CHAPTER 10

MEASURES IN FAVOUR OF THE COUNTRIES OF CENTRAL AND EASTERN EUROPE, THE NEWLY INDEPENDENT STATES (FORMER SOVIET UNION) AND MONGOLIA

The Court of Auditors focused its audit on the budgetary implementation of the PHARE and TACIS programmes.

The Council agrees with the Court's remarks and invites the Commission to continue its efforts to improve the effectiveness of the two programmes in line with the conclusions of the European Council meetings, although it is aware that the Commission must carry out its activities in a particularly difficult environment.

In particular, it wishes to highlight the following points:

- rigorous application of the tendering procedure for the award of contracts under these two programmes;
- the request first to carry out systematic monitoring and evaluation before any decision is taken on renewing each programme;
- the need to improve coordination between those taking part in any operation;
- certainty that specific action will follow the studies carried out in particular in the context of TACIS.

Lastly, the Council expects the Commission to submit proposals for improvements in the context of the implementation of the two programmes and of a report on the management of the staff of the external delegations.

Commission reply

(a) TACIS

1. The Commission strictly complies with tendering procedures laid down in the Tacis and financial Regulations. The rules are as follows :

- Service contracts :

- direct agreement up to ECU 150 000,
- direct agreement after informal consultation for contracts between ECU 150 000 and ECU 300 000,

- restricted tender above 300,000 ECU (200,000 ECU when the new Tacis Regulation comes into force).

- Supply contracts :

- direct agreement after informal consultation up to ECU 50 000,
- open tender above ECU 50 000.

2. The Commission is currently preparing to launch a thorough and exhaustive evaluation of the Tacis programme and its performance to date, as a basis for future decisions to continue the programme.

3. The coordination between all parties involved in the implementation of the programme has been continuously improved. Nowadays, Tacis actively coordinates with the Member States, EBRD, IFIs and other donors in various constituted and informal fora.

4. At the beginning of the programme's life, there was a real need for a proper analysis of the real situation in the Tacis countries. By now, Tacis can build on the knowledge gained in this initial period and focuses more strongly on its real subject : the provision of technical assistance and the transfer of European know-how to the partner states. Only in specific facilities, Tacis is still systematically called upon to finance (pre-investment) studies, e.g. in the framework of cooperation with EBRD under the "Bangkok" facility. In this particular case, it shall be noted that in 1995, 74% of the Tacis funded studies were actually linked to an investment project.

b) PHARE

The Commission, with a view to limiting the number of contracts and the administrative burden on both partner country and the Commission, has introduced 13 sectoral framework contracts which in principle will be used below 300,000 ECU.

If in specific cases the framework contracts cannot be used the option exists for direct agreement, normally after informal consultation, for contracts up to 50,000 ECU.

All other tenders must respect Article 118 and are therefore being announced on the Internet followed by official pre-qualification on which basis the short list is established.

A new Monitoring and Evaluation Manual has been put in place for the Phare Programme. It specifically provides for an annual review of each sector programme, on the basis of which decisions on further funding for the relevant sector will be taken. The Phare Management Committee will take these reviews into account before giving its opinion on the financing proposals presented by the Commission.

c) Staff management in the external delegations

The report requested will be found below, in the section entitled "Comments on the operating appropriations for institutions and bodies of the European Communities".

CHAPTER 11

COOPERATION WITH DEVELOPING COUNTRIES AND THIRD COUNTRIES (EXCEPT FOR THE COUNTRIES OF CENTRAL AND EASTERN EUROPE)

(THE COUNCIL)

The Court devotes most of the Chapter to the results of its check on the legality, regularity and sound financial management of the expenditure relating to the structural adjustment support programmes on behalf of the Mediterranean countries.

The Council:

- **requests that the Commission should accept the Court of Auditors' recommendation inviting it to carry out a country-by-country budgetary analysis to ensure that the budgetary strategy followed is compatible with the adjustment programme under way;**
- **invites the Commission to consider better allocation of its human resources in order to improve the conditions for implementation and organization of the monitoring of these support programmes.**

Commission reply

The reallocation of certain responsibilities in line with SEM 2000 allows a rationalization of responsibilities within the operational directorates. In particular, the release of technical units (including the newly created economic cooperation units which formerly covered a part of their task) from responsibility for the administrative work of contract award and negotiation, will allow those units to take the lead role for projects within their respective responsibilities throughout the project cycle (in effect, the "task management" approach advocated in the recent internal audit). This, in turn, will allow geographical units to discharge more effectively their policy and coordination role in respect of our partner countries. It should be noted that a new post for an economist in the Mashreq unit and a post for an economist for the Maghreb have been created. It has also been decided to involve DG II in considering these questions, and to step up coordination with the IMF and the World Bank.

For 1996, the budgetary authority, at the Commission's request, decided to allocate 3% of the appropriations available for the Mediterranean countries to the preparation, monitoring and evaluation of the Community-financed projects and programmes in those countries.

CHAPTER 13

COMMISSION (STAFF AND ADMINISTRATIVE EXPENDITURE OF THE EUROPEAN COMMISSION DELEGATIONS) FINANCIAL AND ADMINISTRATIVE MANAGEMENT OF ASSETS (EXCLUDING RESEARCH)

(THE COUNCIL)

The Court of Auditors notes differences in the application of Staff Regulations and local provisions in the delegations, in particular with regard to the employment of local staff and the special arrangements applying to the administrative and technical staff. With regard to decentralized local management, certain weaknesses or shortcomings were noted by the Court, in particular in view of the new provisions of the Financial Regulation on decentralization. Adjustment of the structure of permanent inventories of delegations' movable property also appears to the Court to be essential.

The Council notes that the Commission is acting on the Court's recommendations and invites the Commission to continue its efforts in that direction.

It stresses the importance it attaches to the strict application of the rules of the Staff Regulations of officials and the conditions of employment of local staff in the Commission's delegations. It requests a rationalization of staff management.

Commission reply

a) Management of the external delegations

- Rules governing working conditions of locally recruited staff

At the beginning of August 1996 there were 100 delegations with their own local rules. The only ones missing from the list were certain delegations in Central Europe or the former Soviet Union (Albania, the Czech Republic, Georgia etc.) and those where there were special problems as regards either operations (Algeria) or legal status (China, Canada, Japan etc.). Similarly, the local rules for certain Offices where a very small number of officials work (such as Belize and Tonga) are yet to be finalized.

- Special arrangements for administrative and technical staff in certain delegations

The Commission is still giving consideration to the question of introducing special provisions covering local administrative and technical staff of Community origin, in accordance with the guidelines set out by the Court of Auditors. In so doing it will take account of the comment made by the Council on 11 March 1996 when the discharge was granted, calling for a rationalization of personnel management.

- Determination of step on initial classification in grade and reclassification of local staff

The procedure for checking classification as implemented following the Court's comments (see point 13.16 of the Commission's reply) is now operational. The object of it is to oblige local administrators to be more painstaking when giving consideration to the awarding of steps.

- Ongoing inventories of furniture and fittings

- All the delegations have now sent their inventories in to headquarters in computerized form. The figures are being checked before being incorporated into the balance sheet.
- There is now software which enables items worth less than the statutory threshold of ECU 350 to be identified.
- Regular reminders of the writing-off procedures are issued and checks for compliance are made on the spot when inspection teams visit the delegations.

The Commission would confirm, however, that it cannot act on the Court's remark concerning the whereabouts of items in the delegations. To avoid the need to keep updating the inventories, the lists sent to headquarters show what is held in each delegation as a whole, not in each room or premises.

- Service vehicles

- The new rules on the use of service vehicles and private cars on Commission business entered into force on 15 July 1996.
- Tougher checks are being made on overtime worked by drivers. Staff are being encouraged to use alternative methods of transport, such as shuttle services to and from airports.

- Management of annual leave

- Action taken to reduce the number of leave days carried over from year to year has produced encouraging results:
 - carryovers from 1993 to 1994: 240 officials involved
 - carryovers from 1994 to 1995: 275
 - carryovers from 1995 to 1996: 204

The rising curve has now been stopped. Thanks to this step, plus a more binding timetable for forward planning and more thorough analysis of the reasons given for carrying leave days over, the Commission now has greater administrative resources with which to take a firmer grip of leave management.

- There have, on the other hand, been delays in setting up the computerized leave monitoring programme. The system is being reorganized.

- Accommodation

Most of the agreements with officials occupying accommodation leased or owned by the Commission have now been signed. The remaining cases are to do with local peculiarities.

(b) Assets management (excluding research)

At the beginning of 1995 the Commission embarked on a programme to overhaul the management of its assets completely, involving drawing up a full inventory of its assets and laying down new rules and management procedures which should make for more effective asset management in future.

1. The inventory of assets was completed in June 1996 and covered all the Commission's movable assets at headquarters offices in Brussels and Luxembourg.

The exercise covered 68 buildings in Brussels and 13 in Luxembourg, where 314 328 and 81 482 items respectively were inventoried. A new identification technique involving the use of barcodes and optical readers was introduced for the first time, to create a computerized inventory which will be faster and more efficient to use in the future.

The rate of statistical error recorded during this exercise was lower than 1'/'°, which is regarded as acceptable.

The SYSBIEN inventory database is now being updated using the results of the inventorying exercise. Reconciliation of the data should be completed by 31 November 1996.

In addition to the reconciliation, a series of more restricted inspections involving particular sectors and sites will be carried out, at, for example:

- the Transport Service;
- the Offices in the Union;
- the Commission's offices in Strasbourg.

Some 100 000 dossiers are to be processed by 31 December 1996; the inventory situation will then be such that the control authority can be given true and reliable data regarding the Commission's asset holdings.

2. Managing the inventory is the second stage of the operation.

To ensure that the data from the inventorying exercise remain reliable, the Commission decided:

- to adopt a new Regulation on inventories for its own purposes;

- to amend the principles and procedures for managing the inventory.

The new Regulation on inventories was adopted by the Commission on 21 December 1995. The procedures for applying this regulation are being worked out, and should make it possible for the inventorying of assets to be decentralized from 1 January 1997.

A system of regular inventories will be set up to check that the data held in inventories are reliable, in accordance with the stipulation in the Financial Regulation and elsewhere that inventories should be conducted every three years.

In practice the burden of keeping inventories will be shared by carrying out one or more each month.

RELEVANT SPECIAL REPORTS

Special Report No 3/94 concerning the implementation of the intervention measures provided for by the CMO in the beef and veal sector;

(THE COUNCIL)

The Council indicated in particular that it wished the Commission to carry out an evaluation of the intervention arrangements of the CMO once the reform had been fully applied.

It also invited the Commission to study the measures which still needed to be taken in the area of management of stocks and to submit any appropriate proposals.

Commission reply

No public intervention took place in the beef and veal sector from December 1993 to March 1996, during which period the opportunity was taken to improve the operating rules for the arrangement, with regard in particular to the comments by the Court of Auditors in its special report No 3/94.

Since that time, public buying-in has had to resume, owing to the critical situation in the beef and veal sector following the release of reports about the risk of bovine spongiform encephalitis being transmitted to humans. It is still too soon to evaluate the operation of the intervention arrangement (buying and selling procedures, stock management) since buying-in resumed in April 1996. At that time unsold stocks stood at some 8000 tonnes (carcass equivalent weight), held mainly in the United Kingdom (see stock situation in the attached table).

BEEF AND VEAL
 NOTIFICATION UNDER ARTICLE 27
 OF REGULATION (EEC) No 859/89
 INTERVENTION BUYING-IN AND SALES
 SITUATION AT END MARCH 1996

	STOCKS UNSOLD AT 31.12.1995			BUYING-IN FROM 1.1.1996		SALES FROM 1.1.1996		STOCKS UNSOLD AT 31.03.1996		
	MEAT ON THE BONE	BONED MEAT	TOTAL	TOTAL	I N C L . MEAT FOR BONING	MEAT O N T H E BONE	BONED MEAT	MEAT O N T H E BONE	BONED MEAT	TOTAL
BELGIUM	-	-	-	-	-	-	-	-	-	-
DENMARK *	3	68	71	-	-	-	10	3	58	61
GERMANY	-	-	-	-	-	-	-	-	-	-
GREECE	-	-	-	-	-	-	-	-	-	-
SPAIN	-	-	-	-	-	-	-	-	-	-
FRANCE	-	-	-	-	-	-	-	-	6	6
IRELAND	-	36	36	-	-	-	30	-	-	-
ITALY	-	345	345	-	-	-	-	-	345	345
LUXEMBOURG	-	-	-	-	-	-	-	-	-	-
NETHERLANDS	-	-	-	-	-	-	-	-	-	-
UNITED KINGDOM	-	5.072	5.072	-	-	-	65	-	5.007	5.007
TOTAL	3	5.521	5.524	-	-	-	105	3	5.416	5.419
C A R C A S S EQUIVALENT	3	8.119	8.122			-	154	3	7.965	7.968
						154				

* Revised

Special Report No 4/94 concerning the urban environment

(THE COUNCIL)

The Court of Auditors observes in particular that action in this area must be integrated into the longer-term urban programming plan, that projects suffer from being imprecise as regards the operations to be carried out and that inter-departmental consultation should be improved in order to avoid too much dissipation of effort.

It recommends that action should be effectively coordinated, at both Community and local level, and that the Commission should provide precise, systematic support for each action.

The Council asks the Commission to take action on the Court's comments.

Commission reply

The Commission recognizes the growing importance of the urban dimension in several Community programmes and initiatives. An Interdepartmental Working Party on Urban Affairs was set up at the beginning of 1995 and meets regularly to enhance coordination of Community action.

With regard to coordination at local level, there is, for example, the clause in the call for new urban pilot project proposals published in OJ C 319/95, 30.11.95, p. 31: "Proposals may relate to any activity which is the responsibility of the participating local authorities provided the actions proposed are necessary components of an integrated innovative socioeconomic strategy agreed by the local partnership and aimed at tackling specific identified urban problems, or anticipate future ones, in a sustainable way."

Special Report No 3/95 concerning the implementation of the intervention measures provided for by the CMO in the sheepmeat and goatmeat sector

(THE COUNCIL)

The Court of Auditors makes several recommendations, in particular: improving the statistics in respect of quality and transmission time, a more reliable system for recording prices, strengthening controls on premiums, strengthening the supervision of private storage by the Member States, examination by the Commission of alternatives to the current mechanism, in particular with a view to focusing more on support for producers in less-favoured areas, and at the same time a review of the concept of less-favoured areas as regards its implications for the granting of premiums, and examination by the Commission of the possibility of abolishing the system of fattening to produce heavy carcasses.

The relevant Council bodies have examined the Court's report; the Council invites the Commission to take account of the conclusions in the Working Party's report.

Commission reply

The Commission takes note of the recommendations to the Member States with regard to improving the statistics in respect of quality and transmission time and strengthening the supervision of private storage.

The Commission does not, on the other hand, plan to make any proposal to the Council for abolition of the system of fattening to produce heavy carcasses, which was the outcome of a compromise achieved with difficulty in the Council; the Commission will, however, do its best to improve the management of the system by the start of the next marketing year by means of adjustments designed to make controls more effective.

With regard to the recommendation that the premium system be focused more on providing support for producers in less-favoured areas, the Commission sides with the majority of the Member States, who do not support such recommendations.

Special Report No 4/95 concerning the management of EAGGF Guidance Section expenditure in Portugal from 1988 to 1993

(THE COUNCIL)

The Council takes note of the intention of the competent Portuguese authorities to improve, in collaboration with the Commission, internal procedures for the management, control and monitoring of programmes financed in this area.

Commission reply

1. This report was produced after the Court conducted a special audit between June and November 1994 in response to a request made by Parliament's President in February 1994. It highlighted shortcomings in the system of management and control and specific situations which the Court considered irregular.
2. In exercising its right of reply, the Commission has not accepted some of the Court's claims. In other instances, however, the Commission has promised to identify the cases, clear them up with the Member State and, if necessary, take corrective measures.
3. To follow up this undertaking, there has been an exchange of correspondence with the Portuguese authorities and a meeting in Lisbon attended by the agencies responsible for the management of EAGGF expenditure.
4. The final conclusions reached were as follows:
 - 4.1 As regards the distribution of management and control duties between the various agencies, the changes made as a result of the ministerial orders Despacho 32/96 and Despacho 33/96 of 3 April 1996 and Portaria 130/96 of 24 April 1996 have remedied the situation since they clearly define each agency's powers. The Commission will closely monitor the implementation and effectiveness of these provisions.

4.2 The Court considered that, when selecting projects for a number of programmes, insufficient attention was paid to the actual capacity for marketing the products in question. Although Portugal has much the same level of requirements as the other Member States, this has been pushed even further by the introduction of stricter parameters and studies of markets and outlets for the more important projects involving the processing and marketing of agricultural and forestry products.

Some of the difficulties noted by the Court resulted from unforeseeable developments on the Portuguese market following the country's accession to the European Union and its accelerated exposure to the single market. This aspect will have to be given careful attention at the time of any future enlargements of the Union.

4.3 As regards compliance with the selection criteria relating to production capacity in accordance with Regulation (EEC) No 866/90, the Portuguese authorities have shown that, for each slaughterhouse co-financed, they eliminated an identical amount of production capacity. At all events, the projects referred to by the Court were approved under Regulation (EEC) No 355/77 before the entry into force of Regulation (EEC) No 866/90 and the selection criteria laid down in Commission Decision 90/342/EEC of 7 June 1990. There was thus no irregularity.

4.4 Point 3.2.7 of the report deals with the excessive delays in some of the intermediary agency's payments to beneficiaries. This was indeed true of the three cases mentioned by the Court, but they were exceptions. As regards the cooperative in question, it is essential to consider the time needed to formulate a proper application and check whether the request for an advance was legally sound. The delay in the second case was due to the budgetary difficulties of the Autonomous Region of Madeira. In the case of the vocational training centre it was not the late payments that prompted application of the price review formula. The delay was caused by the technical hold-ups in the construction work imposed by the city hall.

4.5 Point 3.3.3 of the report

The Court claims that, under PEDAP, the Member State financed 85% of the expenditure by public health protection groups in the sixth year. Since, from the sixth year, beneficiaries should bear 20% of the eligible expenditure themselves, the criticism appears valid. However, the case in question, which is the result of the adjustment of the reference year for a number of projects to bring it into line with the calendar year, complies with the rules since this additional public expenditure was deducted from the final applications for repayment. In fact, they were financed in full by the national budget.

4.6 Point 3.3.4 of the report

Still in connection with the health protection groups, the Court concluded that, in view of the confusion surrounding the VAT arrangements applying to these beneficiaries, in several cases recoverable VAT was erroneously regarded as eligible expenditure. After the exhaustive check requested by the Commission, the

Portuguese authorities confirmed that all cases of eligible VAT concerned beneficiaries who were unable to recover it.

4.7 Points 8.2.2 and 8.2.3 of the report

As regards the special allowances for young farmers, the departments responsible for certifying that agricultural activity was the main source of revenue for the applicants did not have reliable information. The same was true for the obligation to have sufficient training or experience.

This situation may indeed be criticized, but the Portuguese authorities have shown great determination to improve the system by introducing stricter requirements, adopting a new legal framework and, in particular, stepping up *ex post* controls, as has already occurred with the second CSF.

4.8 Point 8.2.4 of the report

The Court found that Portugal had used national funds to finance more than two projects per beneficiary in each six-year period. Indeed, under national law, beneficiaries may present more than two projects during the reference period provided another undertaking is involved.

As regards the surface area declared for the purpose of compensatory allowances, the definitive implementation of the system of integrated control under Council Regulation (EEC) No 3887/92 will improve controls.

4.9 Point 8.2.6 of the report

As four beneficiaries had failed to comply with the conditions required for Community aid, it was considered that the aid paid should be recovered. For one of these projects, the Member State did not recover the Community aid but converted it into national aid instead as it still met the conditions for this aid. The Portuguese authorities will have to provide further details before the other cases can be closed.

4.10 Points 9.2.8, 9.2.9 and 9.2.10 of the report

The Court found that aid had been granted to some projects outside the areas laid down in the operational programme for farmers who had suffered from bad weather. Apart from the aspect of whether the expenditure itself was eligible, the Member State submitted for approval a programme which did not include the northern region. After the programme was approved, a ministerial order extended the area of intervention to specific places in other areas. The Commission considers that expenditure on these projects is not eligible and it will be deducted from the final application for the balance from the programme.

4.11 Point 9.2.11 of the report

Two major projects accounting for some 60% of aids under the "Mira Rural Development" operational programme went bankrupt. The intermediary agency has

started legal action for the recovery of the aid paid and will keep the Commission informed of proceedings.

4.12 Points 9.2.12 to 9.2.16 of the report

In the case of the operational programme involving "measures to promote silviculture", the Forestry Institute, as a beneficiary of a public afforestation project, was confronted by attempted fraud on the part of a private operator with the complicity of one of its officials. By using false declarations, this operator was about to pocket all of the aid without completing the work. The Forestry Institute itself will resolve the matter and will repay to the intermediary agency the aid which it should not have received. The Commission will ensure that the amount recovered is taken into consideration in the balance of EAGGF financing for this programme. The intermediary agency and the subsidiary control agencies have stepped up controls in this sector.

**ACTION TO BE TAKEN ON THE COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION
OF 11 MARCH 1996
ON THE DISCHARGE TO BE GIVEN TO THE
EUROPEAN FOUNDATION FOR THE IMPROVEMENT
OF LIVING AND WORKING CONDITIONS
IN RESPECT OF THE 1994 FINANCIAL YEAR**

(THE COUNCIL)

As in previous reports, **the Court of Auditors** observes that the Foundation must press on with the introduction of procedures which are consistent with the Financial Regulation, particularly with respect to the almost systematic use of imprest accounts, prior to approval by a financial controller, transfers between budget titles, the segregation of duties between the accounting officer and the authorizing officer, the growth in the amounts of appropriations being carried over, particularly in title 3, which infringes the principle of the annual nature of the budget and the under-utilization of the amounts carried over in the subsequent financial year.

The Council has taken note of the Court of Auditors' comments and of the Foundation's reply and notes that the Foundation has already taken a number of the measures the Court wished it to take. **The Council recommends that in 1996 the Foundation also follow up the Court's other observations.** It also notes that the transfers to which the Council alludes are not in breach of the regulations in force.

Reply from the Foundation

Separation of functions of the Accounting Officer and the Authorizing Officer.

The separation of the duties of the Accounting Officer and the Authorizing Officer will be possible following the delivery of a new computerized accounting system which is scheduled to be in operation in 1997.

Carryovers

It should be noted that carryovers are effected in full accordance with Article 6.1.(d) of the Foundation's financial regulation.

Imprest Account Payments

See Foundation's reply to Parliament's comments.

The Legal Basis for Transfers

See Foundation's reply to Parliament's comments.

ACTION TO BE TAKEN ON THE COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION
OF 11 MARCH 1996
ON THE DISCHARGE TO BE GIVEN TO THE
EUROPEAN CENTRE FOR THE DEVELOPMENT
OF VOCATIONAL TRAINING
IN RESPECT OF THE 1994 FINANCIAL YEAR

(THE COUNCIL)

The Centre stresses that, as a result of more rigorous management, it has been able to reduce the proportion of available appropriations cancelled at the end of the financial year or carried over to the next year; the rate of utilization during the year of the final appropriations for 1994 has improved as a result.

The Council draws attention to the Commission's undertakings in this connection and asks it and the Centre to make every effort to ensure that, at an early date, the Centre is fully operational and able to realize its full potential in fulfilling the tasks assigned to it, while demonstrating effective budgetary and financial management. It takes the view that the transfers between titles to which the Court alludes are not in breach of the financial rules applicable to the Centre.

Reply from the Centre

Mrs Cresson, Member of the Commission, took part in a seminar with the Management Board in March 1996 at which she emphasized the lines of action which CEDEFOP will have to follow.

Decisions have been taken at each meeting of the Management Board since March 1996 to make the Centre more cost-effective; cost-effectiveness has already risen, despite the reduced staffing level in Thessaloniki. Of these decisions, those relating to revitalizing the Centre, setting medium-term priorities and raising the standard of services should shortly show results.

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