COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.11.1997
COM(97) 571 final

REPORT FROM THE COMMISSION

# I. ON THE MEASURES 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 EDF

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## FOR THE 1995 FINANCIAL YEAR

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## MEMBER STATES' REPLIES TO THE OBSERVATIONS MADE BY THE EUROPEAN COURT OF AUDITORS IN ITS REPORT FOR 1995

# PART I

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### *OWN RESOURCES*

**(Parliament)**

**16. Calls on the Commission to propose regulatory and administrative measures aimed at strengthening accounting controls and checks on the national control and management systems with regard to traditional own resources;**

**Commission reply**

Under the "Customs 2000" action programme set up by Decision No 210/97 of the European Parliament and the Council[1], the Commission, working closely with the Member States, has taken various steps to strengthen customs controls and attain comparable quality levels throughout the Community. In particular, besides control visits in the Member States, these have involved drawing up "guidelines" on risk analysis in order to identify common principles at Community level. The Commission is also considering producing "risk profiles" at Community level.

Taking its cue from an audit initiative by certain Member States, the Commission has set up a specialist internal audit sub-group under the Advisory Committee on Own Resources. This move is intended to ensure a similar level of protection for the financial interests of the Union by improving the quality and effectiveness of internal audit in Member States' administrations.

**(Parliament)**

**17. Requests the Commission to publish, in an annex to the annual balance sheet (revenue and expenditure account) the position, for each Member State, with regard to debts to the Community not recovered or written off, with explanations for each situation;**

**Commission reply**

The Commission can furnish an annex to the balance sheet showing the position of each Member State as regards debts to the Community not recovered or written off.

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1 Decision of 19 December 1996. OJ L 33, 4.2.1997, p. 24.

The revenue and expenditure account and balance sheet (Volume IV) for 1996 sets out the position of debtor Member States at 31.12.1996, broken down by Member State (pages 49 et seq.).

**(Parliament)**

**21. Calls on the Commission to develop an appropriate statistical and mathematical tool with a view to contributing to measuring the reliability of the GNP aggregates of the Member States, whose data are the basis for the Community's finances; calls on Eurostat to clarify its role in that development process;**

**Commission reply**

The Commission realises the importance of measuring the reliability of the Member States' GNP aggregates and recognises that the state of research on a tool for evaluating the quality of the macro-economic aggregates was unsatisfactory.

Eurostat accordingly launched a research project on "evaluation and analysis of the quality of the macro-economic aggregates". The project is now under way and an initial interim report is due out at the end of 1997. In the light of the findings, Eurostat will consider whether this work should be extended to all the Member States.

At the same time, considerable improvements have been made in estimating Member States' GNPs as a result of the work carried out under the GNP Directive. As far as the timetable is concerned, the Commission expects the work on improvements to be completed by 1998 for all the Member States except Sweden, Finland and Austria. For those countries completion is due in 1999.

This timetable has been approved by the GNP Committee.

**(Parliament)**

**22. Calls on the Commission to submit to Parliament and the Council a proposal for a Regulation with a view to establishing an action programme designed to improve, in a manner consistent with the powers of the Member States, the effectiveness of the administrations of the Member States in collecting or recovering sums of all kinds due to the Community budget; hopes that this programme will foster the reorganisation measures which the Member States regard as essential to make their efforts more cohesive and will encourage the Member States to increase the number of staff responsible for recovery and to improve their professional training;**

**Commission reply**

The division of responsibilities between the Member States and the Commission regarding own resources is clearly defined in institutional terms. Moreover, the

Commission does not consider that legislation is always the most effective way to improve the collection and recovery of sums due to the Community budget.

However, improving the effectiveness of the Member States' administrations in the area of recovery is one of the objectives of the third phase of SEM 2000. In this context the Commission has recently put forward a proposal to amend the own resources implementing regulation.

Recovery is also one of the six particular areas of focus for the Commission's efforts under the 1997/98 programme for the fight against fraud.

From experience gained in selected cases the Commission will be assessing what action should be taken, in particular as regards the period of limitation, protective measures, preferential credit and the centralisation of cases handled by several Member States.

To improve the recovery system, initial action is already planned under the communication on preferential regimes recently adopted by the Commission. This specifically covers action to harmonise the Member States' recovery procedures by the most appropriate means, possibly through horizontal legislation, action to enhance the competent national authorities' awareness of their responsibilities and training measures for them.

Under the work programme for the fight against fraud it is also planned to extend the principle of clearance of the accounts, whereby Member States which neglect their responsibilities for recovery can be held liable for any sums lost, to other areas besides the EAGGF Guarantee Section.

*AGRICULTURAL SPENDING*

**(Parliament)**

25. **Establishes that the Commission and the Member States have made scant progress in improving application of the rules governing the COM in olive oil; urges the Commission, therefore, to apply immediately all the controls made available by the legislation in force instead of deferring resolution of the problem to a future reform of the COM, the initial outline of which, moreover, does not afford sufficient guarantee that expenditure will be controlled;**

26. **Recalls its resolution of 21 April 1993 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 Communities for the 1991 financial year, in which it called upon the Commission to suspend payments in respect of olive oil if satisfactory controls were not guaranteed by the Member States within a reasonable time scale;**

**Commission reply**

Within the current rules, the Commission has been making every effort to reduce the risk of irregularities by:

- lowering the production estimate for the 1993/94 marketing year (decision of May 1994). Italy has since brought an action in the Court of Justice against the decision (October 1994).

- more effectively targeting producers who must prove the quantity of olive oil pressed (500 kg instead of 100 kg).

The Commission has carried out numerous controls, prompting and helping the national authorities to reinforce their own and to make the control instruments (olive cultivation register and computer records) fully effective.
Parliament's concerns will be better met by faster procedures for clearing the accounts, which now allow *ad hoc* decisions as soon as shortcomings are established.
The Commission does not believe that the option of suspending EAGGF Guarantee payments in the olive-oil sector, available under Article 13 of the Decision on budgetary discipline, is the appropriate response, except in exceptional cases, since most irregularities that occur are committed even when the controls provided for by the current legislation are carried out.
The Commission thus acknowledged in a recent report that a fundamental overhaul of the current rules was needed, since they do not provide effective control.

When control failures are sufficiently manifest, the Commission will consider whether the application of Article 13 of the Budgetary Discipline measures can be justified, and advances reduced or suspended.

***Integrated control system***

**(Parliament)**

27. **Notes that, even after the EP granted a one-year extension to the time-limit, the integrated control system for the payment of premiums for livestock and land areas, which originally was to have been introduced in all Member States by the end of 1995, is still not fully operational in some Member States; calls therefore on the Commission to establish, in connection with the clearance of accounts process, the resulting loss risk for the Community budget and to make financial corrections at an appropriate level vis-à-vis the Member States concerned;**

28. **Asks the Court of Auditors to investigate as soon as possible the effectiveness of the integrated control system; calls on the Commission, where appropriate, to make proposals for improvements;**

**Commission reply**

Following the reform of the CAP, the Member States set up an integrated management and control system (Council Regulations 3508/92 and 3887/92). The system was to have become operational from 1 January 1996, extended by Council to 1 January 1997. Failure to comply with the existing rules can therefore be examined only in the process of clearing the accounts for subsequent financial years, and, when justified by manifest failures, in the context of Article 13 of the Budgetary Discipline measures.

However, despite the implementation difficulties observed in some Member States, the Commission still considers the integrated control system to be a useful management tool

and sees no value in making substantial changes. At present, the Commission is planning changes only as regards the type of sanction.

**(Parliament)**

29. **Points out that the Court of Auditors has found that there is currently no satisfactory system for the identification of sheep and goats, and, in the light of the volume of premiums disbursed (approx. ECU 2 bn), calls on the Commission to submit a proposal by the end of the year, modelled on the proposal for a Council Regulation for the identification of bovine animals, for a Council Regulation for the marking of sheep and goats too;**

**Commission reply**

The Commission is finalising a report on the identification and registration of animals provided for in Article 10 of Council Directive 92/102/EEC. The report concentrates on the problems this poses as regards sheep, goats and pigs, since new rules have recently been adopted for cattle.

As soon as the report is completed, the Commission will put formal proposals before the Council. The Commission intends to present its proposals during the first three months of 1998.

*Clearance of accounts*

**(Parliament)**

32. **Asks the Commission to forward as soon as possible the results of the enquiry about the legality and regularity of refund claims on the export of feta cheese from Denmark in order to establish the amount which will be disallowed from Community financing;**

**Commission reply**

In its report, the Court of Auditors states that Danish feta exports involved refund payments of ECU 480 million for the period 1989-94 and, on the basis of a report by the Danish Court of Auditors, estimated the proportion of non-compliant batches at 3.3%. This figure was used to calculate by extrapolation that the undue payments made amounted to ECU 16 million. At the time, this report was not made known either to the Court of Auditors or to the Commission

At the Commission's request, the Danish authorities re-examined all feta exports and drew up an exhaustive list of negative analyses. The department responsible for clearance of the EAGGF accounts checked the Danish authorities' work during an on-the-spot visit. Checks were also carried out on the basis of the documents supplied by Denmark. Eventually the precise amount of Community financing to be disallowed was quantified at DKR 3.76 million. This will be recovered in the process of clearing the accounts for 1994.

**(Parliament)**

**33. Calls on the Commission to check, in connection with the clearance of accounts procedure, that EAGGF appropriations directly or indirectly earmarked for the prevention and treatment of BSE over the last five years have been utilised correctly;**

**Commission reply**

As from April 1996, when audit of expenditure became the responsibility of clearance of EAGGF-Guarantee accounts, a total of five audit missions have been conducted for the "Over Thirty Month Scheme - OTMS" and subsequently the "Selective Slaughter Programme - SSP", these being the direct farmer support measures designed to eradicate BSE. From financial year 1997 on, clearance audits in other Member States will incorporate an examination of intervention measures connected with BSE eradication.

*Miscellaneous*

**(Parliament)**

**34. Asks the Commission to inform Parliament on action taken against those responsible for the widespread abuse of the aid system for cotton, on the amounts of unduly paid aid recovered and on the effectiveness of the new measures for monitoring and control of the common market organisation for cotton;**

**Commission reply**

The irregularities and fraud discovered in the cotton sector in Greece since the inquiry conducted at the Commission's request in 1992 were formally notified to the Commission by the national authorities under Article 3 of Regulation 595/91.

As far as undue payments of Community aids are concerned, with the updated information available following a mission to Greece in December 1996, the Commission has recovered DRA 1 901 429 000 out of a total of DRA 2 755 365 000; recovery of the remainder (DRA 853 936 000) is being monitored closely by the Commission's departments. The long delay in recovery is mainly due to the appeals by the ginning firms against the recovery decisions. The Greek Court of Auditors has now taken over the task from the Cotton Board. Criminal proceedings against those responsible for identified fraud cases are continuing.

The new control measures introduced under the reform of the COM in cotton have considerably simplified the system as a whole and strengthened the measures to counter the risk of fraud. With the introduction of a fixed link (fibre yield of 32%) between unginned and ginned cotton, the control authorities now have a further effective instrument to check actual raw cotton production, which is the basis for payments.

**(Parliament)**

35. **Believes that intensive pig producers should contribute in greater degree towards the measures to combat classical swine fever; therefore asks the Commission to bring forward a review of the regulations in force;**

**Commission reply**

Veterinary expenditure falls under Council Decision 90/424/EEC (emergency measures and/or eradication programme). Provided the veterinary conditions are met, the emergency measures stipulate that "without prejudice to market support measures ..., the financial contribution by the Community, divided if necessary into several tranches, must be 50% of the costs incurred by the Member State in compensating owners for the slaughter, destruction of animals and, where appropriate, their products, for the cleaning, disinsectisation and disinfection of holdings and equipment and for the destruction of ... contaminated feedingstuffs and contaminated equipment ..."

The financial contribution by the Community is conditional on certain veterinary conditions and on rapid and adequate compensation for producers. There are no plans to make distinctions on the basis of other criteria, since the purpose of the measures is to speed up eradication of the disease.

## COMMON FISHERIES POLICY

**(Parliament)**

38. **Disapproves of the fact that Community aids have been used to assist the construction or modernisation of processing plants which subsequently have not been usable because provision had not been made for the requisite disposal infrastructure or because there was no guarantee of regular fish supplies; calls on the Commission not simply, in future, to accept all formally correct projects, but, rather, to try to obtain reasonable assurance that there will be a return on the assisted investment;**

**Commission reply**

The Commission would stress that, as the Court of Auditors has recognised, the aids have encouraged the modernisation of businesses processing and marketing fish products. The risk of failure when it comes to investments is inherent in business activity, especially in this fluctuating economic sector.

It would also point out that since aid under Regulation (EEC) No 4042/89 is handled under the relevant programmes, it did not know the details of individual projects.

Given mutually agreed allocation of responsibilities under the Structural Funds, it is for the Member States to make checks on the ground to ensure that all the preconditions for the economic success of projects are met (ex-ante verification).

However, the Commission has taken steps, through the Monitoring Committees, to strengthen ex-ante checks on the economic viability of projects under the new FIFG programmes.

## STRUCTURAL FUNDS

**(Parliament)**

**41. Asks the Commission to propose a solution for the programming problems, including the need for ex-ante and ex-post evaluation;**

**Commission reply**

The 1993 reform of the Structural Funds allowed tighter arrangements to be brought in for ex-ante and ex-post evaluation and for monitoring operations. One of the major innovations was the obligation to carry out these exercises in partnership. An important stage is the mid-term evaluation required under the standard clauses to guide any reprogramming of operations that may be necessary after programmes have been running for 3 years.

This exercise is carried out for each programme within each CSF/SPD and has to produce recommendations for improving the effectiveness of operations.

This was the first evaluation exercise carried out in partnership on such a large scale. In 1995 common guidelines were drawn up on the arrangements and scope of evaluation. In 1996 work focused on the appointment of independent assessors by each monitoring committee. This stage involved a substantial administrative effort by all the Member States, but was the crucial part of the new evaluation system. Back-up is provided by evaluation steering groups, which are subgroups of the monitoring committees and serve as a forum for discussion of the work. Their existence is universally acknowledged as a very valuable contribution to opening up a dialogue on strategic questions regarding the programming and implementation of operations.

The pace and direction of the mid-term evaluation varies with the specific nature of each programme. An interim evaluation report for each programme has to be submitted to the monitoring committee by mid-1997, covering the programming, implementation, results and initial impact of operations. This is the first opportunity the Commission has had to gain a general picture of the impact produced by the innovations of the 1993 reform, in particular the new arrangements for focusing on target populations under Objective 3, extending partnership, additionality, and the introduction of the new Objective 4.

To sum up, then, all the programmes approved for 1994-99 involve ex-ante evaluation of operations. In connection with programme monitoring, specific provision is made for evaluation by an independent assessor. In the case of most programmes this involves a mid-term evaluation, an "en route" evaluation integrating the monitoring work of the committees, and an ex-post evaluation carried out after operations are completed.

Along the same lines, the Commission took the initiative of carrying out an ex-post evaluation of Objective 2 operations over the period 1989-93. It also urged the Member States to include their own evaluation with their programming proposals for 1997-99.

Furthermore, before adoption of the SPDs for this period, the Commission conducted its own ex-ante assessment.

To adapt programming for Objectives 1 and 6, the Commission, in partnership with the Member States and in line with the arrangements approved under SEM 2000, set up a substantial number of interim evaluations, which will serve as a basis for reprogramming those Objectives.

A similar approach is being followed for the other multiannual objectives under the Structural Funds. The Commission is taking advantage of every opportunity to improve the consistency, quality and flexibility of the current programming.

**(Parliament)**

**42. Asks the Commission to present its accounting records in such a way that it will be possible for Parliament to:**

- **identify the statutory framework to which commitments and payments relate, and**
- **whether payments have actually been effected;**
- **be kept/stay informed on the backlog in commitments and payments and the amount of outstanding commitments;**

**Commission reply**

The Commission would point out that the accounting records of the European Social Fund (ESF) always cite the number of the Operational Programme, which identifies the programming period to which it relates.

It would also recall that regular meetings are held between MEPs and ESF managers to take stock, *inter alia*, of financial implementation. At these meetings, Parliament is informed of financial implementation in terms of commitments and payments for each budget heading for the last two CSFs. Parliament is also supplied with updated country-by-country figures on financial implementation for CSF II and the Community initiatives.

**(Parliament)**

**43. Asks the Commission, once again, to make a proposal for Article 24 of Regulation (EEC) No 4253/88 to be changed in such a way that effective corrective action, leading to recovery where this is due, will be possible and compulsory:**

- **when there is suspicion that any irregularity (ineligibility, breach of any Community provision, non-compliance with the reporting obligations, non-implementation of compensatory measures, etc.) occurred, money for that**

**project/programme should be frozen for a certain period, during which the Commission should carry out an investigation;**

- **after the investigation corrections by the final beneficiary and/or the Member State will take place within a fixed period, failing which the sums already paid out will be considered to have been unduly paid;**

**Commission reply**

The Commission will consider proposing appropriate amendments to Article 24 of Regulation No 4253/88 for the next programming period. Meanwhile, the existing Article 24 is used where necessary in order to make financial corrections. However, financial corrections, including the recovery of sums unduly received, are often made on a more informal basis, with the agreement of the Member State concerned. For example, a Commission on-the-spot check may discover a case of ineligible expenditure included in a Member State's declaration of expenditure. It will usually be agreed, if the programme is still running, that the next expenditure declaration should be adjusted accordingly. However, if the programme has ended, a specific financial recovery will be made if necessary.

The Commission agreed a draft of a set of internal guidelines on the operation of net financial corrections under Article 24 of Regulation 4253/88 on 12 May 1997. After discussion in the Personal Representative Group and the Structural Funds Committees the Commission took note of a slightly revised set of guidelines at its meeting on 15 October 1997 at the same time as it adopted Regulation 2064/97 establishing detailed arrangements for the implementation of Council Regulation (EEC) No. 4253/88 as regards the financial control by Member States of operations co-financed by the Structural Funds (see paragraph 44).

**(Parliament)**

44. **Awaits the draft regulation promised by the Commission on Article 23 of Regulation (EEC) No 4253/88; expects this proposal to contain amongst others obligations of the Member States with regard to communication of information at all stages and down to the level of individual projects;**

**Commission reply**

The question of financial control and net financial corrections in the area of the Structural Funds was one of the subjects covered by phase III of the SEM 2000 initiative (sound and efficient financial management). In the report submitted by the Personal Representatives Group (PRG) to the Council and the European Council at the end of last

year the Commission undertook in particular to draft a Commission Regulation under Article 23(1) of Regulation (EEC) No 4253/88, as amended, defining more precisely the responsibilities of the Member States in the area of financial control.

The Commission gave a first reading to the proposed Regulation after consulting the PRG and the Structural Fund Committees. The proposal was examined at the PRG meeting on 23 May and was discussed by the Committees at their meetings on 27-29 May and 24-25 July 1997.

The proposed Regulation includes detailed provisions about the controls to be carried out, the follow-up required for the satisfactory settlement of the reported problems, annual reporting to the Commission on the application of the Regulation and the presentation of an independent statement at the closure of each programme summarising the control findings and drawing an overall conclusion as to the validity of the claim for the final payment and the legality and regularity of the transactions underlying the final declaration of expenditure.

The proposed Regulation was sent to Parliament's Committee on Budgetary Control on 28 May 1997.

The Commission adopted this Regulation on 15 October 1997, after having requested the Fund Committees for their formal opinions at their meetings at the end of September.

**(Parliament)**

**45. Calls on the Commission to introduce a system for the clearance of accounts which would enable flat-rate corrections to be made, where these appeared justified in the light of shortcomings in Member States' systems for selection, management, monitoring and control;**

**Commission reply**

The Commission considers that, in principle, the clearance of accounts system, as applied in the area of EAGGF-Guarantee expenditure, is not appropriate in the area of the Structural Funds expenditure for a variety of reasons.

The Commission undertook instead to outline (in the form of internal guidelines to its services) the circumstances in which, in applying Article 24 of Regulation No 4253/88, it might be appropriate for the Commission to make a net correction (i.e. a reduction) in its co-financing.

In these draft guidelines the Commission reserves the right, *inter alia*, to impose lump-sum corrections, the amount to be determined in the light of all available information and background factors. Any decision by the Commission would be taken after consulting the Member State, would involve a formal and fully reasoned decision, and would comply with the principle of proportionality.

The Commission sent the guidelines for information to Parliament's Committee on Budgetary Control on 28 May 1997, and took note of them on 15 October 1997.

## INTERNAL POLICY AREAS

*Research and technological development (RTD)*

**(Parliament)**

**47. Calls on the Commission to establish a coordinated audit system and to provide sufficient staff for checking the RTD contracts;**

**Commission reply**

In line with SEM 2000, the Commission attaches great importance to tighter outside control of RTD activities and has taken several steps with regard to audits:

- in terms of quality: the Commission's approach has gradually moved towards early risk evaluation of contractors, in particular making more frequent use of outside solvency reports. Those negotiating contracts have also been made more aware of the issues of control and fraud. Financial audits of projects are often supplemented by a scientific audit, which allows the audit data to be more fully exploited and makes it possible to apply the findings from audits systematically to all contracts signed with the contractor audited.

- in terms of quantity: the audits show up difficulties which often match recurrent comments by the Court of Auditors. Working with the Court of Auditors, it is therefore planned to review methodological questions such as the calculation and verification of hourly rates and the calculation of general costs, with a view to increasing the efficiency and productivity of both in-house and outside auditors.

An interservice group (DG Research, DG XIX, DG XX, UCLAF) is also working out joint action on audits and costs: defining costs eligible for Community financing, exchanging information on audits, setting up a joint database on audit data, adopting administrative measures to combat fraudulent contractors. The working party is due to report shortly.

Collaboration with the Member States on outside controls is based on the protocols concluded by the Commission with the German, French and British control bodies, which cover the use of standard rates for calculating the general costs of contractors from those Member States. Under SEM 2000, the Commission will be seeking to extend these protocols to other control bodies.

As regards staffing, the number of personnel in the audit department in DG XII, for example, rose from four to twelve in 1996, and the selection of specialist staff for research project audits is currently under way.

**(Parliament)**

**48. Calls on the Commission to exclude participants in the RTD programmes who do not fulfil their financial obligations or who offend considerably against rules of an RTD contract from any further contract with Commission services;**

**Commission reply**

While the audit activity has been strengthened since the report by the Court of Auditors, just increasing audits will alone not solve the problems detected.

An Interservice Group on Costs and Audits (IGCA), made up of representatives of all the DGs concerned with research contracts, Financial Control and UCLAF, has worked to coordinate and to harmonise the different approaches in relation to the following issues.

- the interpretation of the financial provisions of the cost-reimbursement research contracts (guidelines have already been widely diffused),
- the *ex ante* controls and risk analysis on potential contractors (*ex ante* controls are already made on potential contractors at risk),
- the audit procedures,
- the administrative measures and sanctions to be applied to defaulting contractors in the legal structure, and
- the creation of a common data base of contractors participating in cost-sharing research actions.

The report of this Interservice Group will soon be finalised and should be fully implemented for the 5th Framework Programme. A draft of this report has already been given to representatives of the Court of Auditors who participated in one of the IGCA's sessions.

*PACTE and RECITE*

**(Parliament)**

**50. Notes that the decentralised structure in the management of the regional programmes PACTE and RECITE has led to lack of control, mismanagement and substantial delays in payment from the Commission to the regional partners; calls on the Commission to introduce technical and legal instruments to ensure a better management structure;**

**Commission reply**

RECITE

The way that the monitoring of RECITE pilot projects is organised has been improved as follows:

- the Commission decision awarding finance is more precise, indicating the main rules that have to be observed in implementing the project; a more detailed guide than in the past is being prepared for project leaders to assist them with the administrative and financial implementation of the RECITE II projects that will be starting in 1998;

- there is stricter monitoring of pilot projects. Every 4 months the project leader has to submit a 5-6 page progress report, setting out the work done over the previous 4 months and the work planned for the next 4 months. A Commission official or a member of the RECITE II technical assistance bureau attends some meetings of the project steering committee;

- the Commission is being assisted in monitoring projects by a new technical assistance bureau selected by a tendering procedure. The bureau, which can call on more substantial resources than the old RECITE I bureau, operates under close guidance from DG XVI;

- the delays in payments under RECITE I were mainly due to the submission of final reports that were difficult to understand on the financial side and which lacked the information needed to settle cases. The Commission therefore had to ask for additional information, which was not always supplied rapidly by those in charge of pilot projects. By explaining in detail what must be contained in interim and final reports for the new RECITE II projects, the Commission will be able to make payments within a reasonable time in future.

PACTE

PACTE projects were financed under global subsidies granted to intermediary bodies (CEMR-AER) responsible for managing the funds and making payments to project leaders once work had progressed sufficiently. The ERDF rules do not allow funds to be paid over to the intermediary body until all the projects satisfy certain conditions. Those that make the fastest progress do not receive the funds intended for them until the slower ones have moved forward sufficiently.

The only way in which the Commission can ensure that projects receive ERDF funding as and when they satisfy the requirements is to finance them without passing through an intermediary. Since the Commission does not have the staff resources under the ERDF to manage projects as small as those under PACTE directly, it has suspended the financing of new PACTE projects for 1996 and 1997.

*European Vocational Training Policy*

**(Parliament)**

**52. Supports the Court of Auditors, with regard to the Community Action Programme for a European Vocational Training Policy, in advocating the establishment of a single selection procedure under the direct responsibility of the Commission; calls on the latter to make proposals for a change in its forthcoming interim report on the implementation of the programme with the aim of simplifying the application procedures;**

**Commission reply**

Under Article 10 of the Decision establishing the Leonardo da Vinci programme, the Commission will be presenting an interim report on the programme's implementation by 31 December 1997. The report will include a review of the procedures and arrangements for implementing the programme, with a view to drawing lessons for future years.

*Justice and home affairs*

**(Parliament)**

**55. Regrets that of a total of 23 projects chargeable to budget Article B5-800, only five were submitted by the Commission; therefore calls on the Commission to make more use of its power of initiative in the areas covered by Article K.1(1) to (6) of the Treaty;**

**Commission reply**

For the sake of accuracy, it should first be noted that 55 projects were financed in 1995 under Article B5-800 (Cooperation in the fields of justice and home affairs), 6 of them at the Commission's initiative. The main reason why this last figure is relatively modest is the Commission's reluctance to use the procedure laid down by the Council in the legal basis adopted in 1995 (Joint Action 95/401/JHA on measures implementing Article K.1 of the Treaty and Decision 95/402/JHA on the implementation of the Joint Action). Since this provided for a decision by a group of representatives of the Member States on the choice of each individual project and on the financing allocated, the Commission considered it incompatible with the responsibility assigned to it by Article 205 of the Treaty as regards implementation of the budget.

In view of this position, and bearing in mind the concerns expressed by the European Parliament on the subject, the Commission persuaded the Council to make arrangements for the financing of cooperation on justice and home affairs founded on a coherent, lasting basis that offered a better institutional balance and was more in tune with the requirements of sound financial management. On its initiative joint actions were adopted setting up multiannual programmes for legal practitioners (GROTIUS) and on cooperation in the field of identity documents (SHERLOCK). The initial impetus was taken up by the Member States in areas where the right of initiative rests with them, leading to the adoption of two further programmes, one aimed at those responsible for action to combat trafficking in persons and the sexual exploitation of children (STOP) and the other seeking to extend and strengthen cooperation in the areas of common interest referred to in Article K.1(8) and (9) of the Treaty (OISIN). Lastly it should be noted that the Commission intends to put before the Council a proposal for a joint action setting up an information and exchange programme in the field of immigration, asylum and controls at external frontiers (ODYSSEUS), which will largely draw on the lessons from three pilot schemes financed in 1995 from Article B5-800 on the Commission's initiative.

## LENDING AND BORROWING

**(Parliament)**

**56. Calls on the Commission, in its capacity as representative of the European Community shareholding in the EIF, to ensure the introduction of transparent public audit and control arrangements providing the taxpayer-investor with the necessary assurances as to the accountability of the EIF for its use of public funds;**

**Commission reply**

The Commission has always underlined the need to ensure that the Court of Auditors disposes of the necessary information to exercise its mission. Since February 1995, when a high-level meeting was held between the parties concerned, a dialogue has developed to work out an agreement between the Court and the Commission for a satisfactory solution as regards the underlying problem. This dialogue is continuing.

The Commission in 1996, early-1997 and mid-1997 has already provided the Court with the following documents:

1- documents automatically available to all other shareholders (Annual Report and Accounts, information letters and notes to shareholders, etc.);

2- documents specifically connected with the verification of revenues and costs arising from the Community shareholding (calls for capital, payment of dividends, etc.);

3- the Fund's Guarantee Policy Guidelines, Treasury Guidelines, other policy guidelines determined from time to time by the Supervisory Board;

4- Quarterly Reports to the Supervisory Board (including reports on the Treasury) and other periodic progress reports (including the Business Plan and overall risk review);

5- Reports to the Supervisory Board on the implementation of management information systems and guarantee management arrangements;

6- minutes of Supervisory Board meetings dealing with these issues and minutes of the General Meetings.

Besides the availability of these key documents it should be noted that, in conformity with its statutes and rules of procedure, the EIF is audited by two audit bodies. The two members of the Audit Board, of whom one is nominated by the Commission, are appointed by the General Meeting. The Audit Board ascertains that the operations of the EIF have been carried out in compliance with the statutes and the rules of procedure and provide an audit opinion on the annual accounts of the EIF after carrying out its own examinations (including the examination of the documents mentioned) and reviewing the report by an audit firm. The independent international audit firm, after conducting an audit in accordance with international standards on auditing, provides an audit opinion on the annual accounts of the EIF.

Additionally, in order to ensure the application of the statutes and the rules of procedure of the EIF as well as safeguarding Community interests, the Commission participates in

the General Meeting of the EIF, nominates two members of its Supervisory Board and nominates a member and an alternate of its Financial Committee.

The proposed unlimited access by the Court to EIF documents relating to individual operations represents a matter of major importance. However, this question remains unresolved. Discussions on this point between the Commission, the EIF and the Court are continuing.

**(Parliament)**

**57. Asks the Court of Auditors and the Commission to report to Parliament at the soonest opportunity on the management and effectiveness of the Copenhagen facility, with particular reference to the functioning of the job creation criteria applied to interest rate subsidies;**

**Commission reply**

Pursuant to Council Decision 94/217/EC of 19 April 1994 on the provision of Community interest subsidies on loans for small and medium-sized enterprises extended by the European Investment Bank under its temporary lending facility (the SME Facility) the Commission sends the European Parliament and the Council a yearly report evaluating the implementation of this decision. The third report to Parliament relative to the implementation of the SME Facility has been made available at 25 October 1996 (COM(96) 522 final). The fourth report on the implementation, which will be the final one, as the EIB expects to finalise all subsidy disbursements by the end of 1997, will be issued by the Commission as soon as all the statistical information on this final phase of the life of the SME Facility has been collected. This will be very early in 1998.

At 7 May 1997, 60 % of the SME Facility had been paid out, with a reported job creation of 34 200. The current forecast for job creation amounts to approximately 45 500 jobs. The objective of the SME Facility to create at least 33 300 jobs has thus been largely exceeded, even when taking into account the difficulties in evaluating the structural and permanent nature of these extra jobs.

As regards the conditions relating to the investment and the creation of jobs, the subsidy is made available to the beneficiaries on the basis of a bona fide written declaration made by the beneficiaries referring to the job situation resulting at the date in which it has been issued and on 28 April 1994. This declaration also states that the jobs created have been in existence for at least 6 continuous months immediately prior to the date of the declaration. The subsidy is only paid out if the SME loan has effectively been disbursed and the first interest payment has come due.

Furthermore, the national agents entrusted with the management of the interest subsidies verify all the evidence received through the financial intermediaries. Also, the Cooperation Agreement between the Commission and the Bank provides that the Bank will make sample checks on the documentary evidence related to the subsidised loans under the Facility. This control consists in checks, at random, of the intermediary's requests for the EIB funding, including the received documentation on job creation, as well as in on-the-spot visits to agents for reviewing their files. Up to now, the Bank has already visited agents in 12 Member States of the Union. Upon substantiated suspicion,

the agents are obliged to make on-the-spot visits to final beneficiaries for reviewing their files relating to the subsidies paid out under the SME Facility. The beneficiaries are also obliged to deliver evidence substantiating their written declaration when requested by the national agent.

In setting out the eligibility conditions on employment creation, the Commission and the Bank have attempted to strike the right balance between the need to ensure genuine extra jobs, but still avoid excessive bureaucracy and administrative burden for the beneficiary enterprises. The intention to keep the overall administrative cost for the Facility reasonably low was a factor to keep the eligibility conditions as simple as possible.

When evaluating the effects of the SME Facility, it should not be forgotten that in addition to encouraging the creation of additional employment, the SME Facility also helps to increase productive investment, thus stimulating the competitiveness of SMEs and overall economic growth. The total volume of additional investment associated with the Facility is estimated at ECU 4 billion.

**(Parliament)**

**58. Calls on the Commission to submit proposals to the Intergovernmental Conference specifying that the audit rights of the Court of Auditors shall extend to include the financial management systems of all organisations managing Community funds;**

**Commission reply**

During the IGC negotiations the Commission argued that the audit rights of the Court of Auditors should be extended to the financial management systems of any body managing revenue or expenditure on behalf of the Community and to any natural or legal person receiving payments from the Community budget. The amendment of the second subparagraph of Article 188c(3) EC to this effect, as contained in the Treaty on European Union signed at Amsterdam on 2 October 1997 by the Member States, makes this possible.

As regards extending this audit right to the European Investment Bank's activity in managing Community revenue and expenditure, it is also planned to include a new subparagraph 3 in Article 188c(3), referring to the Tripartite Agreement between the Court, the Bank and the Commission. A draft declaration calls for the agreement to remain in force.

## EXTERNAL POLICY AREAS

**(Parliament)**

**62. Calls on the Commission to harmonise procedures for procurement within the different Directorates-General in charge of external policies;**

**Commission reply**

A working party on possible common structures for implementing Community aid to non-member countries was set up in 1996 on the initiative of the Directors-General for External Relations. The working party, involving the various Commission departments concerned, is aiming to achieve greater coherence in the management of Community aid, the harmonisation of procurement procedures being one element of this.

In the specific field of humanitarian aid the Commission has always incorporated all the necessary guarantees, including those required by the Financial Regulation, in its procurement procedures, notwithstanding the imperatives of speed - a vital factor for effective action in this area.

However, the procurement procedures follow the general rules governing competitive tendering in the different parts of the world and have to accord with their specific legal and socio-economic peculiarities. The rules governing procurement contracts financed from the European Development Funds also reflect the specific context of ACP-EC cooperation and any changes to them have to go through the decision-making bodies provided for under the Lomé IV Convention. Despite these constraints, the specialist Commission departments in this area are working towards harmonising the rules on procurement, both internally and through closer contacts and cooperation with the Member States, United Nations agencies and the World Bank.

*PHARE*

**(Parliament)**

64. **Deplores the lack of any clear political vision within the Commission either as to the achievements and effectiveness of Phare expenditure or as to its future role in contributing to the accession of applicant countries in central and eastern Europe to the EU; calls once again for an analysis of Phare's global impact on these countries over the last six years and a clear strategy for the next five years;**

**Commission reply**

The Commission's knowledge and experience gained through its implementation of the Phare programme, and through its work on preparing the opinions on enlargement, is reflected in the Communication on the new guidelines for Phare adopted by the Commission on 19 March 1997. The aim of the Communication is to reinforce the pre-accession strategy adopted by the European Council at Essen. A summary of this document has been transmitted to the budgetary authority.

An interim evaluation of the Phare programme was transmitted before the end of June to the European Parliament and the management committees on which the Member States are represented. The interim evaluation is based on more than 80 evaluations and assessments which have been carried out to date.

The report indicates areas in which more focused evaluations could be carried out. This will be taken into account in the evaluation programme currently

being implemented, by which a series of ex-post and intermediate sectoral and country evaluations are being undertaken. The budgetary authority will be informed of progress by means of regular reports.

*TACIS*

**(Parliament)**

**65. Supports the Commission's intention to concentrate its activities under Tacis indicative programmes into no more than two sectors of intervention per beneficiary country: believes that, if effectively applied, this restriction should enable Tacis assistance to be used in a more focused and efficient manner; asks the Commission to report in detail on the outcome of this initiative in its follow-up report to this resolution;**

**Commission reply**

The Commission has drawn the attention of the authorities of NIS (New Independent States) partner States to the need to further concentrate on a limited number of priority sectors, notably with a view to increasing the visibility and demonstration effects of all projects to be financed by Tacis, and to developing coordinated follow-up actions to previous Tacis projects. ***ANNEX 1*** shows that, as a general rule, two priority sectors have been retained in the 1996-97 Action Programmes.

**(Parliament)**

**66. Continues to note with concern the chronic instability of staffing within the Commission's directorate-general with responsibility for the management of Tacis and the difficulties this causes for the efficient management of the programme; calls on the Commission, in the absence of any serious prospect of new staff becoming available, to review the deployment of staff within DG 1A and, within the context of its efforts to concentrate Tacis interventions in fewer sectors, sharply to reduce the number of projects handled;**

**Commission reply**

Commission staff employed in managing the Tacis programme have been reinforced since 1995 through internal redeployment. The structure of Tacis management has also been reformed through the creation of new geographical units. These are now fully in charge of programming, design, as well as monitoring of multiannual programmes, in close coordination with a horizontal unit. Concentration of resources on a more limited number of priorities is expected to lead to an increase in the average size of projects.

**(Parliament)**

67. **Expresses its deep concern at the inordinate slowness of the commitment, contracting and disbursement process under the Tacis programme; believes that no more than a year should ever normally elapse between the commitment of Tacis funds and the signing of the relevant contract; to this end, asks the Commission to introduce automatic procedures whereby commitments lapse if not contracted within 18 months;**

**Commission reply**

Instructions have been given to shorten the duration of the programming cycle, from the identification of priority sectors with the partner States concerned to the signature of contracts. Rules have been introduced to cancel projects committed in previous years which are not tendered and contracted within given deadlines. From 1997, funds will not be committed if projects are not sufficiently prepared to be tendered within a six-month period.

**(Parliament)**

68. **Asks the Commission to maximise, within the scope of the Tacis Regulation, its contributions to public investment projects, especially those co-financed with other donors;**

**Commission reply**

As far as cooperation with other donors is concerned, technical contacts and regular policy dialogue are now underway with the Member States, on the spot and in the context of the Tacis Committee, with the EBRD and the International Financial Institutions.

**(Parliament)**

69. **Re-emphasises the extreme importance it attaches to the nuclear safety programmes; feels therefore great disquiet at the inability of the Commission to implement this policy meaningfully in the context of the Phare and Tacis programmes; calls on the Commission to set up a Task Force with responsibility, on an inter-departmental basis, for pooling and employing more effectively Commission resources in this sphere and to give the removal of the administrative, procedural and legal obstacles to the implementation of the programme absolute political priority and to bring all appropriate pressure to bear on beneficiary countries to this end;**

**Commission reply**

Commission services are cooperating with each other to a great extent already in the implementation of the Nuclear Safety programme. Efforts are being undertaken to further involve the resources available at the Joint Research Centre for project preparation and project follow-up. This will be on a contractual basis. As far as the other DGs are

concerned, discussions are also underway to investigate new approaches in cooperation with regard to the management of the Nuclear Safety programme.

*Development cooperation*

**(Parliament)**

**71. Calls on the Commission to clarify whether it has financed any part of the EDF from the EU budget;**

**Commission reply**

The Commission has introduced two entirely separate circuits, both for the management of appropriations and for keeping the accounts of expenditure and revenue, in order to ensure fully that the different financing systems applicable - the Community budget and the EDF - are adhered to.

This clear separation between the EDF and the budget does not, however, rule out budget operations in the ACP countries, such as the implementation of food aid and humanitarian aid (Title B7-2 of the general budget), operations carried out under the heading of Community aid for non-governmental organisations (Title B7-6 of the general budget), measures for human rights and democracy in the developing countries (Article B7-702) and compensation for ACP banana products (Article B7-871). The appropriations in question were allocated by the budget authority either for all developing countries or for a limited number of such countries on the basis of specifically chosen criteria (tropical forests, compensation for banana products) or for developing countries specifically listed in the legal basis for food aid.

**(Parliament)**

**72. Calls on the Commission to clarify the objectives of budgetary aid to ensure both that it is used in social areas in ways that benefit people living in poverty, and that budgetary aid results in larger quantities of the budget of the recipient country being spent in basic social areas;**

**Commission reply**

The objectives of budgetary aid are clarified in the legal bases adopted by the Council for the various budget headings.

With specific regard to action for people afflicted by poverty and for basic social needs, the Commission devotes particular attention to the issue even before the application of specific legislation comes into play. Both areas are among the objectives of Community policy on development aid, as defined in Article 130u of the EU Treaty:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them;

- the smooth and gradual integration of the developing countries into the world economy;
- the campaign against poverty in the developing countries.

In the case of food aid, Article 2(2) of the Regulation of 27 June 1996 (OJ L 166, 5.7.1996, p. 1), requires that the following criteria be taken into account (without excluding other relevant considerations):

- food shortages,
- the food situation, measured using human development and nutritional indicators;
- *per capita* income and the existence of particularly poor population groups;
- social indicators of the welfare of the population in question;
- the recipient country's balance-of-payments situation;
- the economic and social impact and financial cost of the proposed operation;
- the existence in the recipient country of a long-term policy on food security.

Article 2(5) also stipulates that in the case of countries undergoing structural adjustment, and in line with the relevant resolutions of the Council, the counterpart funds generated by the various development assistance instruments constitute resources which must be managed as part of a single and consistent budgetary policy in the context of a programme of reforms.

With specific reference to operations in support of food security, the third paragraph of Article 3 of the Regulation of 27 June 1996 states:

The purpose of these operations shall be to support, using the resources available, the framing and execution of a food strategy or other measures fostering the food security of the population concerned and to encourage them to reduce their food dependency and their dependence on food aid, especially in the case of low-income countries with serious food shortages. The operations must help to improve the living standards of the poorest people in the countries concerned.

**(Parliament)**

**73. Believes that the budgetary authority, with the assistance of the Commission, should simplify the procedures for releasing appropriations from the humanitarian aid reserve in order to speed up the mobilisation thereof and thus avoid carrying over unused appropriations by ECHO to the following year;**

The Commission recalls that what prompts it to carry over payment appropriations from one year to the next is the chronic shortage of budget funds available for humanitarian aid, which obliges it to boost its allocation from the emergency aid reserve once the current year's appropriations have been used up. Since this topping-up occurs at a fairly late stage, the additional payment appropriations obtained cannot all be used up in time and therefore have to be carried over.

To make good the shortfall in payment appropriations during the year the Commission - while sharing Parliament's view that carryovers should be kept to a strict minimum - has two possible options:

- transfers of appropriations within heading 4. This depends on appropriations being available under the headings in question;

- making use of payment appropriations from the reserve, independently of commitment requirements. This option is conditional on approval from the budgetary authority, since it has to authorise any request for additional funds submitted by the Commission.

Nevertheless, since the scope of such measures is limited, the Commission cannot rule out the possibility that it might still have to resort to carryovers of appropriations in the future. A third solution might be to increase the payment appropriations for Chapter B7-21 (Humanitarian aid) and to reduce the payment appropriations entered in the reserve correspondingly. However, the amount of the reserve is already fixed until 1999 and cannot be altered without revising the financial perspective.

Also it should be noted that there is an element of chance in programming and planning for humanitarian aid, since disasters and events that unleash humanitarian crises are inherently unpredictable.

**(Parliament)**

**75. Calls on the Commission to ensure that ECU 2 m is spent on sports development projects in the townships in South Africa and requests a detailed report on how this is carried out;**

**Commission reply**

Commission departments are currently drawing up a financing proposal to support a sports programme that will be implemented by SCORE, an NGO specialising in sports development.

SCORE works only in the townships and rural areas, using sports as a means of social development, communal integration and reconstruction. SCORE is a credible NGO that has strong links with State sports structures. It also has links with the NOC NSF Olympic Committee in the Netherlands.

The Commission plans to propose financing of around ECU 7 million in 1997 for a project under budget item B7-3200.

*Common foreign and security policy*

**(Parliament)**

**78. Calls on the Commission to join with the Member States in setting up a preparatory group to develop, on the basis of experience of joint actions hitherto, procedures under which the organisational and financial technicalities of joint actions can be made to operate as rapidly and smoothly as possible;**

**Commission reply**

On the basis of its experience, the Commission has already begun efforts to rationalise the budget implementation of CFSP measures. This work has been conducted in coordination with the relevant Council and Parliament committees (CFSP Advisers and Budget Committee in the Council, Committee on Budgets and Committee on Budgetary Control in Parliament).

Among recent initiatives, the following are of particular note:

- the provision, with the agreement of the budgetary authority, of a limited budget to cover preparatory and evaluation costs for CFSP operations (request for transfer from the reserve (B0-40) to item B8-013, approved on 12 May 1997);

- clarification of the status of the European Union's special envoys, in order to facilitate management of their operations;

- preparation of a special model financial statement for the CFSP in support of requests for transfers. This will allow financial information to be set out for the budgetary authority in a more transparent manner so as to speed up decisions.

The continuation of this work will depend on the interinstitutional agreement currently being negotiated on the implementation and financing of the CFSP.

## ADMINISTRATIVE EXPENDITURE

**(Parliament)**

**79. Calls on the Commission to report to it on the circumstances which led it, following the evacuation of the Berlaymont building, to enter into a commitment, contrary to the promises made by the Belgian Government throughout the negotiations, to pay various property taxes in respect of the rental of buildings which it does not own;**

**Commission reply**

1. **Historical background**

   In connection with the departure from the Berlaymont building, which was decided and carried out in 7 months, the Belgian State agreed to pay for:

   - the rental of replacement buildings, while the Commission in return continued to pay the rent for the Berlaymont building;

   - the cost of telephone and data links between these buildings;

   - the cost of roadworks alongside the Breydel building;

   - the cost of removal, totalling ECU 1 million;

° the provision of a site in Haren, for a token annual rent of ECU 1, where the Commission's central kitchen was built.

The rent for the Berlaymont building is lower than the rent for the replacement buildings which the Belgian Government agreed to pay. The savings in rent amount to some ECU 17.7 million a year. In addition the total available area above ground in the replacement buildings is slightly higher (by 6500 m²) than the area above ground in the Berlaymont (=120.000 m²).

This shows that the Belgian State contributed financially to the smooth evacuation of the Berlaymont and the relocation of the departments concerned.

2. **Belgian property tax on replacement buildings**

In March 1994 the Régie des bâtiments, acting for the Belgian State, demanded payment of the Belgian property tax ("précompte immobilier") for the first time since 1992. The tax was not payable on the Berlaymont building.

The budgetary authority had also been informed that the removal from the Berlaymont to the replacement buildings would not involve any additional cost in terms of rents. The intention was that the Commission should continue to pay the rent for the Berlaymont and that any extra rental costs for the replacement buildings would be borne by the Belgian State. No specific reference was made to the property tax in this connection.

From the legal point of view, the agreement concluded between the Commission and the Belgian State on 5 November 1991 stipulated that: "subject to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the Commission is liable for all State, regional, provincial or municipal taxes and charges of any kind imposed or payable on the buildings covered by this agreement during their occupation by the Commission".

Under the terms of the above agreement the Commission cannot claim exemption from property tax since the obligation to pay the tax is a contractual obligation under private law that offers no grounds for exemption that the tax authorities can accept. The fact that a tenant is required by contract to pay property tax deprives the tax of its fiscal character, as only the owner is liable to the tax authorities. The inclusion of a reference to Articles 3 and 4 of the Protocol cannot therefore exempt the Commission from payment of the tax.

In its annual report for 1992 the Court of Auditors commented on the departure from the Berlaymont building, stating that "the Commission, as the 'occupant' of buildings rented directly by the Régie des Bâtiments, received a guarantee that it would be able to occupy the buildings in question for a period of nine years. It would be responsible only for taxes and charges and for the usual maintenance expenses". No specific reference was therefore made to the liability for taxes and charges.

It is also important to emphasise that payment of the property tax, at an annual cost to the budget of around ECU 2.7 million, must be seen in the light of the overall negotiations on the Berlaymont evacuation operation. Bearing in mind the costs

being borne by the Belgian State, the Commission seems to have come out of it well.

3. **Conclusion**

Broadly speaking, when it comes to traditional rental contracts the Commission is faced with the customary practice on the Brussels property market whereby the tenant bears the cost of the property tax, either by specific agreement or by its inclusion in the rent charged. Discussions have already begun with the Belgian authorities on concrete action to remedy the current situation.

Mr Liikanen has also recently been in contact with the Belgian authorities for steps to be taken as regards both buildings rented by the Commission and the replacement buildings for the Berlaymont.

## DECENTRALISED COMMUNITY AGENCIES

**(Parliament)**

**85. Calls upon the Commission, in the meanwhile, to implement Parliament's suggestion of part-time financial controllers to assist the agencies;**

**Commission reply**

The solution proposed by Parliament of part-time controllers has been considered by the Commission. In most cases the secondment of a controller to an individual agency would not be justified, given the relatively small volume of work involved. Since the Financial Controller's duties are incompatible with most other tasks in the financial field (management of funds, authorising officer and accounting officer), his field of activity would be rather limited. The cost/benefit ratio would not warrant this solution.

Nevertheless, Financial Control has decentralised its functions to its Luxembourg department in respect of the Translation Centre for the Satellite agencies, and to its Ispra branch in respect of the European Training Foundation at Turin.

Furthermore, taking account of the views expressed by Parliament in several reports, the Commission intends to make greater use of modern means of communication.

For the moment, while the agencies do not yet have a single accounting system which the Commission's Financial Controller can access directly, documents will be sent to Financial Control by electronic mail (documents already in computer form or scanned documents). After examining the files on screen, Financial Control would attach a scanned stamp of approval and would return the approved files to the accounting officer of the agency in question, again by electronic mail. In the second stage, which would be when the agencies have an accounting system (part of Sincom-2) which Financial Control in Brussels can access fully, only certain supporting documents would need to be sent by electronic mail with the exception of the European training foundation in Turin, where fax and express mail continue to be used. Approval would be given solely in electronic form in the system (as is already the case at the Commission under Sincom-1). Each stage would, of course, have to be accompanied by adequate security measures.

The Commission is also envisaging an increase by Financial Control in the number and length of its visits to the sites of the agencies, depending on the resources allocated to it, possibly by redeploying posts of agency controllers.

**SEM 2000**

**(Parliament)**

**86. Invites the Commission to revise internal procedures for the selection, management and monitoring of measures funded directly by the Commission and for the payment of balances or recovery of incorrect payments;**

**Commission reply**

The Commission is carefully reviewing internal management, payment and recovery procedures.

To begin with it has focused on the *ex-ante*, mid-term and *ex-post* evaluation phases to improve project management.

Subsequent revision of the Financial Regulation, incorporating phases 1 and 2 of SEM 2000, is one of the measures currently being considered by the Council and Parliament.

The Commission is examining its internal procedures for the selection of measures which it funds directly itself, as part of the report by the Inspectorate-General on the management of subsidies and grants. On the basis of that report a working party will produce an interim report by the end of 1997 and a final report in 1998.

The Commission will send these reports to Parliament and the Council.

**(Parliament)**

**87. Is of the opinion that the question of interest earned on Community monies, already touched on in connection with SEM 2000, requires in-depth consideration across the board; calls upon the Commission to draw up regulations concerning the use or, as the case may be, recovery of interest earned on Community monies; meanwhile, instructs its Committee on Budgetary Control to draw up a report in this connection;**

**Commission reply**

The Commission will instruct its departments to begin examining the question. As far as interest earned on Community advances is concerned, the Court of Justice confirmed in its ruling on 14 July 1994 in case C-186/93 that the Commission no longer owns funds once they are transferred to the Member States.

This position was restated by Mrs Gradin in her answer to Written Question No 2847/94 (OJ C 145, 12.6.1995, p.18):

"In the case of the Structural Funds, the Commission ceases to own the funds once they have been transferred to the Member States. But it monitors compliance with the relevant provisions, in particular regarding the time limit for the transfer of Community funds to the final beneficiaries and their correct utilisation."

In the case of payments to parties other than the Member States, the problem remains. To tackle the issue of interest earned, the Commission is drawing up a proposal that is incorporated in the new Financial Regulation to be presented to the Council and Parliament in the last quarter of 1997.

**(Parliament)**

**88. Urges the Commission to carry into effect its announcement to apply the rules on eligibility, as established in the framework of SEM 2000; asks for a review of these eligibility criteria before starting the next programming period;**

**Commission reply**

On 23 April 1997 the Commission adopted a series of decisions (C(97) 1035/1 to 15) amending the decisions approving the Community support frameworks, the single programming documents and the programmes of Community initiatives adopted for all the Member States. The annex to these decisions contains a set of 22 sheets drawn up by an interdepartmental working party headed by the Commission's Financial Control from September 1995 onwards.

The eligibility sheets were communicated to the Member States by the Commission's Secretariat-General on 24 April 1997. They were published in the Official Journal (L 146 of 5.6.1997).

The Commission took the view that the interdepartmental working party on the eligibility of expenditure under the Structural Funds should continue its work in order to identify and formulate solutions to possible problems that might arise regarding the eligibility of expenditure in the further course of implementing Community operations. The working party's findings (clarifications, amendments or new sheets) will be submitted to the Commission.

***ANNEX 1***

## Priority sectors - Tacis Action Programmes 1996 and 1997

| | Armenia 1996-1997 | Azerbaijan 1996-1997 | Belarus 1996-1997 | Georgia 1996-1997 | Kazakhstan 1996-1997 | Kyrghyzstan 1996-1997 | Moldova 1996-1997 | Mongolia 1996-1997 |
|---|---|---|---|---|---|---|---|---|
| Agriculture and Agro-Industry Development | | | | | | | | |
| Energy | | | | | | | | |
| Environment | | | | | | | | |
| Human Resources Development | X | | | | | | X | |
| Implementation of Public Investment Programme | | | | | | | | |
| Infrastructure (and Networks) Development | | X | | X | X | X | | X |
| Private Sector Development | X | | | X | | | X | |
| Social Protection | | | | | | | | |
| Structural and Institutional Reforms | | | | | | | | X |
| Transport and Telecommunications | | | | | | | | |
| Reserve - contingencies | | | | | | | | |

| | Russia 1996 | Russia 1997 | Tajikistan 1996-1997 | Turkmenistan 1996-1997 | Ukraine 1996 | Ukraine 1997 | Uzbekistan 1996-1997 |
|---|---|---|---|---|---|---|---|
| Agriculture and Agro-Industry Development | X | | | | | | X |
| Energy | X | | | | X | X | |
| Environment | | | | | | | |
| Human Resources Development | X | | | | | | |
| Implementation of Public Investment Programme | | 25/09/1997 Tacis Management Committee | 29/05/1997 Tacis Management Committee | 29/05/1997 Tacis Management Committee | | | |
| Infrastructure (and Networks) Development | | | | | | | X |
| Private Sector Development | X | | | | X | X | |
| Social Protection | X | | | | | | |
| Structural and Institutional Reforms | X | | | | X | X | X |
| Transport and Telecommunications | X | | | | | | |
| Reserve - contingencies | | | | | | | |

***** These Financing Proposals received favourable opinions by the Tacis Committee in the 1996-1997 period *****

## RESOLUTION ON THE REPORT OF THE COURT OF AUDITORS ON THE ACCOUNTS OF THE ECSC AT 31 DECEMBER 1995 AND ON THE ANNUAL REPORT OF THE COURT OF AUDITORS ON THE MANAGEMENT OF THE ACCOUNTS AND THE FINANCIAL MANAGEMENT OF THE ECSC

### LENDING ACTIVITIES

**(Parliament)**

2. **Endorses the actions of the Commission in managing the outstanding ECSC lending to Eurotunnel and in provisioning against possible losses; asks the Commission to report to Parliament on the outcome of the forthcoming meeting of Eurotunnel shareholders on the proposed debt restructuring plan, in particular on the effects the decisions taken have on ECSC finances and any possible future role in the management of Eurotunnel;**

**Commission reply**

The Commission undertakes to report to Parliament on the outcome of the forthcoming meeting of Eurotunnel shareholders on the company's proposed debt restructuring plan.

**(Parliament)**

5. **Expresses its concern at the Court of Auditors' preliminary findings suggesting a high non-compliance rate in respect of the conditions attached to interest-rate subsidies aimed at job creation; asks the Commission to recover all irregularly paid subsidies and the Court of Auditors to establish with greater clarity the scale of this problem;**

**Commission reply**

The Commission has always demanded repayment of interest-rate subsidies paid unduly whenever its controls have shown up irregularities. Naturally, this approach still applies. To assess the scale of the problem, the Commission decided to check a representative sample of interest-rate subsidy payments. So far, the Commission has checked 96% of the sample and the results of these controls have been reviewed by the Court of Auditors.

The exercise showed that 4.24% of the total amount of the sample had been paid irregularly on the basis of incorrect information given to the Commission by businesses.

**(Parliament)**

6. **Calls on the Commission to review the rules covering the disbursement of interest-rate subsidies and, more generally, the effectiveness of reporting and monitoring arrangements connected with global loans.**

**Commission reply**

The Commission has strengthened its control measures for Article 56 global loans, paying careful attention to the cost-effectiveness of the measures introduced. All sub-loans receiving interest-rate subsidies of more than ECU 50 000 are now systematically checked, while other sub-loans continue to be subject to spot checks. The Commission believes that these measures should substantially reduce the level of irregularities found. The Court of Auditors has been informed of these measures and also took the view that the tighter controls would be effective.

**RESOLUTION CONTAINING THE OBSERVATIONS WHICH FORM PART OF THE DECISIONS GRANTING DISCHARGE TO THE COMMISSION IN RESPECT OF THE FINANCIAL MANAGEMENT OF THE SIXTH AND SEVENTH EUROPEAN DEVELOPMENT FUNDS FOR THE 1995 FINANCIAL YEAR**

## BUDGETISATION OF THE EDFs

**(Parliament)**

2. **Welcomes the proposal of the Commission to the Intergovernmental Conference that Declaration 12 annexed to the EC Treaty be deleted as a clear step in the direction of budgetising the EDFs; calls on the Commission to present firm proposals in this regard by the end of 1997 in the context of the forthcoming negotiations on the revision of the Financial Perspectives;**

**Commission reply**

The Commission has proposed budgetising the EDF on several occasions in the past and has already widely argued the case.

With reflection now under way on relations between the European Union and the ACP countries on the eve of the 21st century (Green Paper), the Commission once again recommends budgetising the European Development Fund. The renewed recommendation will be put before the Council when it discusses the Green Paper with the Commission during the second half of 1997.

However, the Commission would point out that despite the many initiatives it has already taken, and will continue to take, in favour of incorporating the EDF in the budget, it does not possess the power of decision. The problem of whether or not to budgetise the EDF currently lies primarily with the Council and the Member States.

## BUDGETARY IMPLEMENTATION

**(Parliament)**

5. **Calls again on the Commission to introduce provisions allowing appropriations under national or regional indicative programmes, which remain unused for defined lengths of time following their transfer to subsequent EDFs, to be re-allocated to non-programmable aid programmes;**

**Commission reply**

The problem of re-allocating and re-using EDF funds left unused after their transfer to subsequent EDFs is a major concern for the Commission.

The will to resolve the problem in conformity with the existing legal framework is reflected in the following:

- the internal agreement between the representatives of the governments of the Member States on the financing of the second financial protocol to the fourth ACP-EC convention, in the allocation for the 8th EDF, provides for the transfer of ECU 292 million of unallocated or unusable resources from previous EDFs;

- the reconstitution from June 1996 of the Somali NIP, totalling ECU 42 million, by recycling remaining funds from the 4th, 5th and 6th EDFs;

- recourse to the option of using remaining funds from previous EDFs, especially for the countries eligible for structural adjustment, "through the quick-disbursing instruments" under Article 240(2)(a) of the Lomé IV Convention (e.g. Côte d'Ivoire); This option will still apply after ratification of the amended Lomé IV Convention and its scope will even be extended under the new provisions introduced in Article 247.

- instructions have been given to the departments concerned to give priority to committing remaining funds that have not yet been committed and to decommitting "dormant" appropriations, in accordance with the agreements and rules binding the Commission and the ACP states.

The Commission is still considering what new steps could be taken to deal in a more structured manner with the question of remaining EDF appropriations that have been "transferred". However, the Commission is not the only party concerned. Some measures that are technically possible might have political implications for our ACP partners or might come up against legal obstacles that can only be removed by other decision-making bodies.

## STRUCTURAL ADJUSTMENT

**(Parliament)**

7. **Calls on the Commission, in consultation with the Bretton Woods institutions and other donors, to formulate fewer, clearer and more realistic conditions to be attached to structural adjustment packages; takes the view that such conditions and criteria must be applied universally and objectively to all beneficiary countries on the same basis; accepts nonetheless the fact that the Commission has to be able to respond flexibly to varying circumstances in ACP countries within the scope of these conditions;**

**Commission reply**

In the SPA working group on "Economic Reform in the Context of Political Liberalisation", donors attempted to define more clearly what the interrelations between different aspects of political liberalisation and economic reforms have to be for them to reinforce one another; on this basis they then sought to define a strategy for outside aid in order to support reform processes better.

The deliberations of the working group, chaired jointly by the Commission and USAID, highlighted the need to consider a new approach to conditionality.

The World Bank made a series of proposals summarised in the papers "Higher Impact Adjustment Lending" and "Ten Hypotheses on Adjustment Support", applicable to its adjustment support instruments.

The Commission also contributed some ideas, presenting to its partners a summary in the following documents:

- "Reformulating conditionality in economic reform programmes in sub-Saharan Africa"
- "Donor conditionality reformulated, guidelines for a pilot case" and "Ten issues on donor conditionality reformulated".

The proposals by the World Bank and the Commission were discussed at length and eventually it was decided in December 1996 to carry out a two-year trial operation in Burkina Faso with the following main objectives:

- to improve and reinforce country ownership during the preparation and implementation of programmes;
- to make it easier to mount aid measures and reduce their irregularity and the number of suspensions connected with the management of conditionality;
- to make aid more effective by monitoring the programme on the basis of performance indicators in the fields of budget management and growth with equity;
- to improve coordination between donors through joint evaluations.

**(Parliament)**

8. **Calls on the Commission at the same time increasingly to focus EDF structural adjustment appropriations in countries whose domestic policies allow them to benefit from such assistance, therefore also to stop assistance to countries which are unable or unwilling to apply such policies;**

**Commission reply**

The new approach to conditionality should make it possible to adopt a more realistic contractual framework, to make a fairer assessment of the performance of countries in terms of economic reforms with an eye to long-term development, to avoid stop-and-go operations as far as possible, and so to make structural adjustment aid more effective.

By allowing aid to be modulated according to sectors and areas where progress is achieved and measured, it will also allow greater selectivity among recipient countries, logically directing aid towards the most effective economic and social policies.

The system for allocating resources for structural adjustment support will allow resources not used by countries that perform poorly to be redirected to countries where the framework of economic reforms offers an environment and prospects for aid that will be more effective overall.

**(Parliament)**

9. **Calls on the Commission to focus more on deploying authorised aid for the benefit of the most underprivileged population categories and the sectors in need of assistance in the fairest possible way in accordance with the provisions in order to secure a more efficient distribution of funding (basic education, health service);**

**Commission reply**

From the outset the Commission has done a great deal to ensure that account is taken of the social dimension in implementing the Lomé IV Convention and structural adjustment support programmes.

Securing public expenditure on health and education, especially basic health care and primary education, has obtained 70% of the financial resources for structural adjustment support. The remainder has largely been directed towards maintaining economic infrastructures and labour-intensive operations.

The Commission has also contributed substantially to reorienting public expenditure towards priority social sectors, taking part wherever possible in reviews of public expenditure for these sectors. However, this approach concerns the medium and long term and involves not merely the instruments for structural adjustment support. The Commission has also been keen to help recipient countries to define policies in social fields, where developing human resources, extending access to basic health services and basic education for the entire population, and meeting the most basic needs (food and water) are the key concerns.

These concerns also played a major part in determining the priorities selected when formulating aid strategies and drawing up the indicative national programmes for the utilising the resources of the 8th EDF.

**(Parliament)**

10. **Calls on the Commission not only to provide finance for aid projects but also, in parallel, to monitor such projects until completion;**

**Commission reply**

The Commission does not confine itself to financing aid projects. It does not shirk the responsibilities and duties assigned to it under the Lomé Convention. It remains involved at every stage of a project: from programming, through examination, financing and monitoring programme implementation, all the way down to final evaluation.

The Commission's concerns extend beyond matters connected with the granting of finance. Of course it takes care to see that the administrative, accounting and financial rules governing EDF financing are properly observed, but it is very much involved in examining, monitoring and evaluating projects as well.

The annual country reports on the implementation of the EC/ACP conventions and the numerous technical missions from headquarters and evaluation reports bear witness to the Commission's involvement in implementing Community aid at each and every stage.

Given the staffing constraints it faces, and realising the dangers they pose for supervision of the programmes it finances, the Commission is directing its efforts towards achieving greater efficiency.

With this end in view, and to enable officials to perform better the ever more complex and diverse tasks demanded of them, the Commission:

- has produced or is updating a number of working tools (updated compendium of instructions, handbook on financial and economic analysis of development projects, user guide on EDF financial procedures, explanatory notes on instructions and standard documents for operations carried out through public works departments);

- organises training seminars on subjects directly touching on the implementation and supervision of programmes financed by the EDF. In line with requirements, recent training courses offered have covered administrative, financial and accounting management (EDF financial procedures, OLAS system), the management of instruments (STABEX), and monitoring sectoral policies (health, structural adjustment);

- has set up a Quality Support Group in the Directorate-General for Development with the task of helping the departments responsible to improve their preparation and examination of projects and to enhance the quality, relevance and viability of Community aid.

The Commission is also engaged in a double exercise aimed at improving financial management (SEM 2000) and modernising the administration and personnel policy (MAP 2000). This initiative concerns all Commission staff, of course; but it could nourish the constant and more specific thinking that focuses on the means and constraints involved in implementing and monitoring aid to the ACP countries, while always keeping in mind that the Commission's responsibility will continue to extend beyond the mere granting of finance.

# PART II

# FOLLOW-UP TO THE COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN FOR 1995

## CHAPTER 1

## OWN RESOURCES

### 1. TRADITIONAL OWN RESOURCES

#### a) Inward processing procedure

**(The Council)**

**invites the Member States and the Commission to take appropriate measures to ensure correct application of the EEC-Turkey Agreement; it also expects the Commission to step up its cooperation with national administrations to make the inward processing suspension system more operational, to submit the legislative amendments needed in various areas to resolve the problems the Court has pinpointed with respect to the transit of non-Community goods, particularly where maritime transport is involved, and to ensure that the rules on the payment of interest on arrears are applied.**

**Commission reply**

To ensure that the EEC-Turkey agreement is correctly implemented with regard to the period preceding the entry into force of Decision 1/94 of the EEC-Turkey Association Council, the Commission has asked the Member States to examine the conditions under which ATR certificates for goods re-exported to Turkey after their processing in the Community were issued and, if necessary, invalidate them and inform the Turkish authorities of this.

In order to achieve the economic aim of the inward processing procedure more effectively, without compromising the Union's financial interests, the Commission is currently looking at the possibilities of reworking the procedure to make it simpler and more operational.

In 1996, following a seminar in Leuven attended by the customs authorities of the Member States and economic operators, the Commission published a Green Paper on the operation and future of the inward processing procedure.

These various measures should lead to a fundamental change in the rules on economic customs arrangements, so that the existing rules are simplified and distortions of competition or possibilities of abuse or irregularities are avoided.

As for the problems in the transit of non-Community goods, the transit section of the Customs Code Committee has been sent a draft Commission Regulation amending the provisions of the Community Customs Code, with a view to simplifying customs procedures and guaranteeing security of transport of goods by sea, particularly by strengthening controls on the customs status of these goods. The draft has been revised several times since being examined, most recently at the Committee's meeting of 30 April 1997, so the Committee has not yet been able to deliver its opinion.

As for interest on arrears, the Commission would point out that any delay in making traditional own resources available leads to the application of Article 11 of Regulation (EEC, Euratom) No 1552/89.

### b) Customs warehouses

**(The Council)**

**Regarding the operation of customs warehouses in the Member States and the application of certain provisions of the Community external transit procedure, the Council invites the Member States and the Commission to take the appropriate measures to meet the Court's criticism and ensure that the Community's financial interests are protected.**

**Commission reply**

The Commission shares the Court's concerns about certain shortcomings identified in the customs warehouse arrangements. It is looking at the measures needed to remedy the various problems. It would point out that the problem of the lack of consistency between the Community Customs Code and its implementing provisions relating to the rules of assessment has been resolved in the meantime by amending the Code.[2]

## 2. VAT OWN RESOURCES

### Detection of infringements of Community legislation

**(The Council)**

**Setting a deadline for the payment of sums due and imposition of interest for late payment. The Council encourages the Commission to continue monitoring the compliance of national VAT legislation with Community provisions and invites it to step up its cooperation with the competent administrations in the Member States with a view to making progress with the resolution of technical problems, thus ensuring that the Community's financial interests are protected.**

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[2] Parliament and Council Regulation (EC) No 82/97 of 19 December 1996, amending Regulation (EEC) No 2913/92.

**Commission reply**

The Commission confirms that it considers the detection of infringements of Community legislation to be one of its priorities and that it is acting accordingly.

On the more specifically technical issue of the correct determination of certain elements in the national bases for the VAT own resource, cooperation between the Commission and the national authorities has recently enabled relatively long-standing problems to be solved. The Commission will pursue this consultation with the Member States under the existing procedures.

## 3. GROSS NATIONAL PRODUCT

**(The Council)**

**invites the Commission to press on with its efforts in statistics in close cooperation with the Member States with a view to ensuring the reliability, exhaustiveness and comparability of national GNPs given the growing relative importance of this resource in financing the Community budget.**

**Commission reply**

The Commission is aware of the importance of measuring GNP. The work carried out under the GNP Directive has thus enabled the estimate of the Member States' GNP to be considerably improved. As for the timetable for improvements, the Commission plans to conclude them in 1998 for all the Member States except Sweden, Finland and Austria; for these three countries, the improvement work will finish in 1999.

A favourable decision on this timetable was taken in the GNP Committee.

## CHAPTERS 2 AND 3

## EUROPEAN AGRICULTURAL GUIDANCE AND GUARANTEE FUND,

## GUARANTEE SECTION (EAGGF-GUARANTEE)

**(The Council)**

**stresses the need to step up control systems, particularly so as to resolve the problems noted as regards the statement of assurance on the integrated monitoring and management systems. It particularly regrets the unwarranted expenditure on combating fraud and irregularities; it asks for all non-eligible expenditure to be recovered.**

**Commission reply**

The Commission has undertaken an examination of the cases highlighted by the Court of Auditors and has initiated recovery proceedings in instances of non-eligible expenditure.

**(The Council)**

**In the olive oil sector, the Council asks the Commission to take account of the Court's observations in the projected reform it is currently preparing.**

**Commission reply**

In its meeting on 12 February 1997, the Commission adopted a note to the Council and Parliament concerning the olive and olive oil sector, covering the current common organisation of the market, the need for reform and the solutions proposed.

In drawing up the various options for reform contained in this note, the Commission has considered and expanded upon the remarks made by both Parliament's Committee on Budgetary Control and the Court of Auditors.

Thus, where the Commission considers that the Court's remarks may improve the common organisation of the market for olive oil, proposals have been made to this effect. Apart from the option of aid for olive trees, which would mean a complete reform of the current system, various aspects, such as the flat-rate aid scheme for small producers or the system of consumption aid, are to be reformed whatever the option chosen.

## CHAPTER 4

## COMMON POLICY ON FISHERIES AND THE SEA

**(The Council)**

**invites the Commission, within the framework of this Decision and of Regulation No 2847/93, amended to introduce an obligatory satellite monitoring system, to pursue its efforts to improve the follow-up of these programmes' implementation, in particular as regards the analysis at Community level of the cost-effectiveness ratio of the investment proposed.**

**Commission reply**

The Commission's annual report on the monitoring and control systems applicable to the common fisheries policy for 1996 and subsequent years will deal with the financial and budgetary aspects in detail. This will be helped by the fact that the Member States are required to send the Commission a report by 1 June each year on the progress made in relation to the forecasts. This information will enable the Commission to carry out proper monitoring of the cost/effectiveness analysis of expenditure by the Member States, which will form a special section of the annual report on fisheries.

# CHAPTER 5

# REGIONAL SECTOR

## 1. Determination of the eligible regions and areas

**(The Council)**

**also takes the view that the Commission should attach particular importance, inter alia, to the concentration principle during the next Structural Funds programming period.**

**Commission reply**

The concentration principle is one of the general principles of the Structural Funds that the Commission intends to strengthen during the next programming period and which it presented as part of Agenda 2000.

As the first report on economic and social cohesion in 1996 pointed out, resources must be targeted at problem areas in order to increase the efficiency of the measures taken.

At present, just over half the total population is eligible for the four regional objectives of the Structural Funds, while only 47% are covered by national systems of regional aid. This situation must be rationalised.

Even though the Commission has not yet revealed its detailed proposals for the period after 1999, it is already clear that, in future, structural policy will be based on increased geographical and financial concentration. This concentration is particularly necessary in view of the tight constraints on the budget and the prospects of enlargement of the EU during the next programming period.

This implies that, in terms of eligibility for aid under Structural Funds, the Community criteria laid down in the Regulations should be applied as systematically as possible.

For Objective 1, this would mean considering as eligible only those regions whose per capita GDP is less than 75% of the Community average.

For the other objectives, the Commission will make proposals leading to a rationalisation of the number of objectives and eligibility criteria, with a view to ensuring increased geographical concentration and a less dispersed breakdown into areas which correspond as far as possible to the areas eligible for national regional aid (under Article 92(3)(c) of the Treaty).

## 2. Interaction of loans and grants within the framework of the Structural Funds

**(The Council)**

**invites the Commission to consider what improvements might be made, in the context of the forthcoming revision of the Structural Fund and Cohesion Fund rules, to achieve a more coordinated use of loans and grants.**

**Commisson's reply**

There is an acknowledged need for better complementarity and coordination at Community level of all the various instruments concerned (Structural Funds, Cohesion Fund, EIB, EIF, etc.).

Although experience under the current regulations has shown that there are inherent difficulties in reconciling the programme approach of the Commission with the project-based system of the European Investment Bank, useful experience has nevertheless been acquired in the EIB/Cohesion Fund joint evaluation of projects. The Commission and the Bank are already examining how this procedure could be developed or applied more widely at an operational level, for example by a more systematic exchange of information with the Commission, formal or informal, on the results of the Bank's project appraisals; by a clearer division of responsibilities; by (possibly) reserving grants for technical assistance on projects financed by the EIB or for certain pre-determined sectors.

## 3. Exchanges of experience between local and regional authorities (PACTE and RECITE)

**(The Council)**

**Reforms have been put in hand to provide the technical and legal means of ensuring improved control of financial movements and of the follow-up of actions as well as a clear presentation of the budgetary data.**

**The Council invites the Commission to implement the improvements mentioned and to inform it, in the framework of the follow-up to the recommendations, of the results it has achieved.**

**Commission reply**

RECITE

The organisation of the monitoring of the RECITE pilot projects has been improved as follows:

- the Commission's decision to allocate funds has become more precise in that it indicates the main rules to be observed for the implementation of the project;

- a guide which will be more precise than those in the past is currently being drawn up to help project directors in the administrative and financial implementation of their RECITE II projects which will begin in early 1998;

- the monitoring of pilot projects has been strengthened. The project director must explain, every four months, in a 5-6 page progress report, what work has been done over that period and what he expects to achieve during the next four months. A Commission official or a member of the RECITE II technical assistance office will attend certain meetings of the project's steering committee;

- the Commission is assisted in the monitoring of projects by a new technical assistance office selected by invitation to tender. This office, which has greater resources than the old RECITE I office, works under the close supervision of DG XVI;

- delays in payment concerning RECITE I are due, in large part, to final reports being handed in with incomprehensible financial information, and to the lack of the information needed to clear the files. This has forced the Commission to request further information which has not always been swiftly provided by those responsible for the pilot projects. By explaining in detail what the interim and final reports for the new RECITE II should contain, the Commission will, in future, be able to make payments within an acceptable time limit.

PACTE

The PACTE projects were funded by a global subsidy made to an intermediary organisation (CEMR-AER) responsible for managing these appropriations and paying them to those in charge of the projects when the work was sufficiently advanced. ERDF rules allow appropriations to be paid to the intermediary organisation only when all the projects have fulfilled certain conditions. Those who work fastest therefore receive the funds allotted to them only when those proceeding slowly have made sufficient progress.

The only way in which the Commission can ensure that the projects receive ERDF appropriations as and when they fulfil the conditions is to finance these projects without going through an intermediary organisation. As the Commission does not have the human resources within the ERDF to manage projects as small as the PACTE projects directly, it has suspended the financing of new PACTE projects for 1996 and 1997.

# CHAPTER 6

# SOCIAL SECTOR

## 1. European Social Fund (ESF)

**(The Council)**

**invites all Member States to sign cooperation protocols or similar agreements, as appropriate, with the Commission; it invites the Commission to report on their implementation.**

**Commission reply**

The Commission welcomes the Council's call on all Member States to sign cooperation protocols or similar agreements with its Financial Controller. These bilateral protocols or similar agreements are an essential aspect of phase III of the SEM 2000 exercise, designed to make significant improvements to the system for monitoring Community financial assistance under the Structural Funds and thus increase transparency in financial management. At this stage (June 1997), the Commission's Financial Controller has already signed protocols or similar agreements with the control authorities of eight Member States. It is pursuing contacts and negotiations with the control authorities of the other seven Member States and expects these protocols to be signed before the end of 1997.

## 2. Community programmes in the fields of education and vocational training

**(The Council)**

**The Commission should improve the coherence and complementarity of these new programmes with the other Community measures, streamline the procedures and step up controls on their implementation.**

**The Council welcomes the initial improvements made by the Commission and asks it to reach, with the Member States, firm conclusions on the means of supplementing the monitoring and increasing the coordination of the programmes.**

**Commission reply**

First, it should be noted that the Commission has encouraged the ESF representatives to participate in the national Leonardo da Vinci committees and representatives of the Leonardo da Vinci programme to participate in the monitoring committees for Community initiatives. These measures have now been implemented in certain Member States.

Furthermore, under the consultation procedure established with the Member States for project selection, the department directly responsible (DG XXII) coordinates with the other Commission departments (DG V in particular), in order to avoid any overlap or even duplication of funding. From 1997, this coordination with the other departments

will be initiated further in advance of the procedure than in previous years, from the moment when DG XXII draws up the first preselection lists, with a view to consultation with the Member States.

Finally, the projects selected are subject to increased monitoring and thematic coordination (information, events, etc.), in close collaboration with the national authorities.

### 3. Audit of contracts and grants

**(The Council)**

**invites the Commission to continue implementing the methods identified during phases I and II of the SEM 2000 initiative to increase the efficiency of the Commission's internal organisation and financial management and to consider ways of improving procedures for the award of grants and their follow-up.**

The Commission is pursuing action to increase the efficiency of its internal organisation and financial management under phases I and II of SEM 2000. A report on this subject was sent to the Council in June 1997.

On the basis of a report by the Inspectorate-General, in July 1997 the Commission set up a working group to draw up the rules applicable to all the subsidies in order to draw up general principles of allocation.

The group will make suggestions, in particular on the following issues:

- appropriate forms of ex-ante publicity,

- standard information asked of applicants, taking into account the specific problems of small organisations,

- criteria and procedures for analysing and selecting proposals,

- transparency within the Commission,

- eligibility and earmarking issues,

- recurrent subsidies, dependency issues and co-financing including co-financing in kind,

- standards for contractual rights and obligations,

- monitoring and control issues,

- appropriate procedures for ex-post publicity,

- clarification of definitions as relevant for transparent budget execution.

The group will draw up an interim report by the end of 1997 and the final report plus vade-mecum for managers in 1998.

The Commission will send the Council and Parliament the reports on this work for their information.

## CHAPTER 7

## THE EUROPEAN AGRICULTURAL GUIDANCE AND GUARANTEE FUND, GUIDANCE SECTION (EAGGF-GUIDANCE)

**(The Council)**

**invites the Commission to implement measures to improve the management of this Community initiative and procedures for recovering appropriations received in error, points out that it is the Commission's responbility to define clear guidelines for these initiatives so that Member States' authorities are better able to play their part, and asks the Commission to draw conclusions from the Court's comments, in particular as regards evaluation, for all Community initiatives.**

**Commission reply**

The Commission considers that the Council's recommendation has been put into effect by the new communication governing implementation of the LEADER II initiative (Communication No 94/C180/12), particularly in points 17 (monitoring), 18 (control) and 19 (evaluation). In view of the decentralised nature of the initiative, specific, strengthened control procedures in the programmes are planned, in accordance with the provisions in the Commission communication.

In order to facilitate the task of implementation at national/regional level, the communication referred to is supplemented by a non-exhaustive list of eligible operations and a detailed description of a prototype of the LEADER operational programme.

For evaluation of the LEADER II programmes, each programme expressly provides for recourse to an independent assessor who must make interim and ex-post reports.

The procedures for recovering unduly paid funds at Member State level form part of the measures for improving management by the Member State's authorities.

Standard procedures for recovering funds unduly paid by the Commission were laid down for this and the other Structural Funds by Commission Regulation (EC) No 1681/94 of 11 July 1994.

Under SEM 2000, the Commission, in partnership with the Member States, is drawing up rules to improve the controls and subsequent financial corrections to be made, if necessary, for the operations financed by the Structural Funds.

# CHAPTER 8

# FINANCIAL INSTRUMENTS AND BANKING ACTIVITIES

## European Investment Fund

**(The Council)**

**With regard to the request of the Court of Auditors for satisfactory access to the internal documents of the Fund necessary for monitoring this instrument, the Council again urges that a satisfactory solution be found quickly.**

**Commission reply**

The Commission has always stressed the need to ensure that the Court has the necessary information to fulfil its mission. Since February 1995, when a high-level meeting was held between the parties concerned, a dialogue has developed to work out an agreement between the Court and the Commission for a satisfactory solution to underlying problem. This dialogue is continuing.

In 1996 and the first half of 1997, the Commission has already provided the Court with the following documents:

(1) documents automatically available to all other shareholders (Annual Report and Accounts, information letters and notes to shareholders, etc.);

(2) documents specifically connected with the verification of revenues and costs arising from the Community shareholding (calls for capital, payment of dividends, etc.);

(3) the Fund's Guarantee Policy Guidelines, Treasury Guidelines, other policy guidelines determined from time to time by the Supervisory Board;

(4) Quarterly Reports to the Supervisory Board (including reports on the Treasury) and other periodic progress reports (including the Business Plan and overall risk review);

(5) Reports to the Supervisory Board on the implementation of management information systems and guarantee management arrangements;

(6) minutes of Supervisory Board meetings dealing with issues above and minutes of the General Meetings.

In addition to these key documents being available it should be noted that, in accordance with its statutes and rules of procedure, the EIF is audited by two audit bodies. The two members of the Audit Board, one of whom is nominated by the Commission, are appointed by the General Meeting. The Audit Board ascertains that the operations of the EIF have been carried out in compliance with the statutes and the rules of procedure and provide an audit opinion on the annual accounts of the EIF after having carried out its

own examinations (including the examination of the documents mentioned above) and having reviewed the report by an audit firm. The independent international audit firm, after conducting an audit in accordance with international auditing standards, provides an audit opinion on the annual accounts of the EIF.

Furthermore, in order to ensure the application of the statutes and the rules of procedure of the EIF, as well as safeguarding Community interests, the Commission participates in the General Meeting of the EIF, nominates two members of its Supervisory Board and nominates a member and an alternate of its Financial Committee.

The proposed unlimited access by the Court to EIF documents relating to individual operations is a matter of major importance. However, this question remains-unresolved. Discussions on this point between the Commission, the EIF and the Court are continuing.

# CHAPTER 9

# RESEARCH AND TECHNOLOGICAL DEVELOPMENT

**Action plan for the introduction of advanced television services in Europe**

**(The Council)**

**stresses the qualtiy of the Court's detailed analysis and agrees to a large extent with its recommendations. It invites the Commission to pay particular attention to evaluating the cost/benefit ratio of this programme in the light, inter alia, of trends on the market in 16:9 television sets.**

**Commission reply**

Cost-efficiency, as the Council has pointed out, is an important selection criterion and has been given added emphasis in the remaining proposal evaluations. However, the evaluation must also take into account "criteria relating to spread and balance", and this sometimes leads to a different result than a selection based on cost-efficiency alone.

Nonetheless, the Commission is currently carrying out an evaluation of the 16:9 Programme, assigned to an independent contractor, and the conclusions will be studied and implemented wherever necessary.

## CHAPTER 10

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

### 1. Budgetary implementation

**(The Council)**

**invites the Commission to pursue the measures already initiated to ensure better budgetary implementation of programmes, in particular with a view to precluding excessive growth of commitments outstanding and the accumulation of commitments and payment operations at the end of the year.**

**Commission reply**

Following the establishment of a Resources Directorate in the department concerned in October 1996, the Commission has taken steps to further tighten control of outstanding commitments and has proceeded to de-commit resources from the budget. Financial operations are more evenly spread throughout the year, although TACIS budgetary commitments in 1996 were delayed by late adoption of the Regulation.

### 2. Specific observations concerning the PHARE and TACIS programmes

**(The Council)**

**considers that there must be better coordination between contributors, a clear definition of the experts' role, simpler organisation and clearer administrative procedures. It also invites the Commission to take steps to ensure better use of human resources and to reduce dependence on external staff in implementing and managing programmes. The Council reiterates its request for supervision and systematic prior evaluation before any decision is taken to renew a programme.**

**Commission reply**

On January 1997, the Commission adopted rules and procedures applying to PHARE and TACIS in order to ensure greater transparency in the tendering process and the award of contracts, and to clarify the respective role of Commission and external staff, in particular as regards the exercise of public authority tasks. The recourse to external staff is controlled by the provisions set out in SAB No 1/96, and the 1997 budget. Commission staff employed in managing the PHARE and TACIS programmes have been reinforced since 1995 through internal redeployment, as well as through the conversion of appropriations into posts. However, over the period since 1995, the department concerned has also had to take on substantial additional tasks relating to the management of the extra resources allocated by the budgetary authority for the former Yugoslavia.

As regards monitoring and evaluation, the Commission has put in place both an extensive system for monitoring and assessment of ongoing programmes and a programme of ex-post evaluations. The monitoring and evaluation system provides direct input into the programming process, and it is envisaged that from 1997 no new programmes will be presented without an assessment of ongoing programmes in the same sector. In addition, the ex-post evaluation system feeds into the programming procedure.

## 3. Observations concerning the loan for the importation of food and medical products into Kyrgyzstan

**(The Council)**

**invites the Commission to bring about a radical improvement in cooperation and coordination with the authorities of recipient countries.**

**Commission reply**

The food and medical aid to Kyrgystan was carried out in accordance with the Council and Commission regulations on the subject. The Commission has drawn the attention of the Kyrgyz authorities to their responsibilities in this respect. As far as more general cooperation with Kyrgystan is concerned, the Commission is continuing to implement the TACIS programme and provide humanitarian aid.

## 4. Observations concerning the counterpart funds

**(The Council)**

**asks the Commission to monitor the use of counterpart funds more closely.**

**Commission reply**

The Commission has requested audits of counterpart funds, which are being undertaken in a number of beneficiary states. Three of these audits, of counterpart funds in Albania, Poland and Romania, have been completed and the Commission is examining the results. A fourth audit, of counterpart funds in Bulgaria, is in preparation.

## 5. Assessment of the programmes

**(The Council)**

**agrees with the observations of the Court of Auditors and requests the Commission to continue its efforts to improve the effectiveness of the PHARE and TACIS programmes. A global evaluation of the programmes financed and, in the case of PHARE, of their impact, above all in preparing the CCEE for accession, is very important and necessary, if at all possible before 30 June 1997.**

**Commission reply**

The Commission's knowledge and experience gained through its implementation of the PHARE programme, and through its work on preparing the opinions on enlargement, is reflected in the communication on the new guidelines for PHARE adopted by the Commission on 19 March 1997. The aim of the communication is to reinforce the pre-accession strategy adopted by the European Council at Essen. A summary of this document has been sent to the budgetary authority.

Interim evaluations of the PHARE and TACIS programmes were sent before the end of June to the European Parliament and the management committees on which the Member States are represented. The PHARE interim evaluation is based on more than 80 evaluations and assessments which have been carried out to date. The TACIS interim evaluation is based on the regular monitoring reports concerning all major TACIS actions and projects.

Both reports indicated areas in which more focused evaluations could be carried out. This will be taken into account in the evaluation programme currently being implemented, under which a series of ex-post and intermediate sectoral and country evaluations are being undertaken. The budgetary authority will be informed of progress by means of regular reports.

# CHAPTER 11

# COOPERATION WITH DEVELOPING AND THIRD COUNTRIES

# (EXCEPT CENTRAL AND EASTERN EUROPE)

## 1. Implementation of the budget

**(The Council)**

**calls on the Commission to take the necessary measures to avoid excessive recourse to carry-overs of unutilised payment appropriations from the previous financial year.**

**The Council calls on the Commission to take the measures necessary to ensure that the utilisation of commitment appropriations in development cooperation is better spread throughout the financial year. The Council supports any effort to reduce outstanding commitments.**

**Commission reply**

The Commission would recall the reasons which oblige it to carry over payment appropriations from one year to the next: chronic insufficiency of funds available for humanitarian aid, forcing it to increase its allocations from the emergency aid reserve, after the appropriations for the year have been used up. These increases come late, with the result that the payment appropriations received on these occasions cannot all be utilised and must therefore be carried over.

In order to make up the deficit in payment appropriations during a year, the Commission, while it shares the Council's opinion that carryovers of appropriations should be limited to a strict minimum, has the following two options:

- to transfer appropriations within heading 4. This option is conditional on the availability of appropriations under the headings concerned;

- to use payment appropriations from the reserve independently of the need for commitment appropriations. This option is conditional on the agreement of the budgetary authority which must authorise the Commission's request for an increase.

However, as these measures have only limited scope, it is possible that the Commission may still be forced to continue to carry over appropriations in the future. A third solution could be to increase payment appropriations under Chapter B7-21 (Humanitarian aid) and, at the same time, reduce the payment appropriations in the reserve. However, the amount in the reserve has been set until 1999 and cannot therefore be changed without revising the financial perspective.

As regards spreading the appropriations over the year, under the SEM 2000 programme the Commission has introduced a monthly timetable for the utilisation of all commitment and payment appropriations in order to spread the implementation of the appropriations evenly over the whole financial year. Respect of this monthly timetable is supervised first

by each Directorate-General and then by the Commission itself. If it is not respected, remedial measures are put into effect in cases where the Commission is responsible for implementation.

However, for humanitarian aid, any programming or planning is uncertain, given the unpredictability of disasters and events causing humanitarian crises.

## 2. Use of funds

**(The Council)**

**requires the Commission to ensure that financing mechanisms, control and information requirements are appropriate to the nature of the operations financed, in the interests of effective control. In appropriate cases, the Commission should introduce, together with the Member States and other donors, global rather than partial procedures.**

**Commission reply**

As a rule, it is Commission policy that the use of funds committed by the Community should be clearly identifiable. However, in certain cases, particularly major humanitarian programmes in which a limited number of donors are involved, and in order to ensure better coordination between the donors in an actual humanitarian situation, the Commission is prepared to consider, together with the other major donors and its partners, how such an approach should be implemented.

## 3. Audits provided for in contracts and financing agreements

**(The Council)**

**reiterates the importance it attaches to the competence of the Financial Controller and the Court of Auditors, as provided for in the Financial Regulation, to control the use of Community funds paid to beneficiaries outside the Institutions. At the same time, the Council and the Court of Auditors consider that the Commission should try to gain maximum benefit from the work of other auditors, to achieve a general improvement in the use of Community funds.**

**Commission reply**

The Commission has always stressed the need to respect the provisions of the Financial Regulation. The capacity of the Financial Controller and the Commission's departments to carry out on-the-spot checks is limited and must be extended as the Court suggests.

## 4. Conclusions

(The Council)

**calls on the Commission to consider how the allocation of its human resources can be improved to achieve better implementation and organisation of the follow-up to support programmes, by giving priority to the actual implementation of projects which have already begun before introducing new projects.**

**It repeats its request that the Commission should follow the recommendation made by the Court of Auditors in the annual report on the 1994 financial year, asking it to carry out a budgetary analysis for each country and satisfy itself that the budget strategy followed is compatible with the adjustment programme carried out.**

### Commission reply

The Commission has been aware of the fact that programme management requires an adequate allocation of resources and management structure. The Directorates-General and departments concerned have therefore benefited from a considerable increase in resources over the last few years. Furthermore, "Resource" Directorates have been created in DGs IA (July 1996) and IB (August 1995), again as part of the SEM 2000 initiative. In DG VIII, the existing structure was adapted in July 1995. This raft of measures enables programmes to be managed effectively. The increase in resources enables projects to be better prepared and therefore to be more effectively carried out.

Under the "Structural Adjustment Facilities" introduced in 1996, the Commission now influences the budgetary process to a greater extent in order to make any necessary changes in liaison with the financial backers. The aim is to ensure that overall budgetary policy is consistent with the adjustment programme. For example, to realise the objective of combating poverty and promoting social equity, the Commission sets the framework conditions for social expenditure in line with the general budgetary objectives and in agreement with the beneficiary.

# PART III

# MEMBER STATE' REPLIES TO THE OBSERVATIONS MADE BY THE EUROPEAN COURT OF AUDITORS IN ITS REPORT FOR 1995

## Court of Auditors' observations in 1995

## Action taken by Germany

### 1. Own resources

### 1.1 Treatment of cases of suspension

Paragraph 1.13.

The earlier statement to the Commission that the writing-off of amounts in Germany would be revoked is based on an obsolete interpretation of Article 17(2) of Regulation No 1552/89. At the time, it was argued that the phrase "impossible in the long term" could not be applied to amounts written off since the entitlements had not been extinguished but were merely irrecoverable for the time being.

However, this obsolete interpretation would virtually cancel out Article 17(2) of Regulation No 1552/89 since tax debts are not written off until it is certain that recovery of the entitlement is impossible in the long term.

In the past amounts have been written off in Germany in full compliance with the provisions of Article 17(2) of Regulation No 1552/89. There thus appears to be no need to return these amounts to the separate account under Article 6(2)(b) of the Regulation.

Keeping these amounts in the separate account could be misleading in certain circumstances, as it would give the impression that they could not in fact be recovered.

Paragraph 1.14.

The ECU 93.8 million cited by the Court of Auditors relates to amounts established on the basis of Regulation No 2891/77, which applied until 31 December 1988 (i.e. old cases).

The new Regulation No 1552/89 does not contain any transitional rules for the amounts established on the basis of its predecessor, Regulation No 2891/77. As a result, Germany did not set up a specific notification system to deal with old cases, which would have imposed a heavy administrative burden (some 600 offices up to 1996).

It will produce a list of old cases remaining open as requested by the European Commission.

1.3 Transitional system for VAT

Paragraph 1.73.

Germany agrees essentially with the European Commission.

However, in a number of cases the tax authorities ascertain only after some time that some traders have never genuinely existed for VAT purposes (e.g. bogus companies).

Paragraphs 1.82. - 1.84. and 1.88.

To improve the reliability of its Intrastat data in 1995 Germany sent reminders to around 30 000 companies, improved processing through its computerized statistics project dealing with intra-Community trade ("ASI": *Automatisierte Sachbearbeitung in der Intrahandelsstatistik*), and increased the frequency of VAT data transfers between tax authorities and the federal statistical office to a monthly report. These measures should improve reliability and ensure the data is more up-to-date.

Germany also objected to Eurostat's plan, in the SLIM initiative, not to produce mirror statistics for reasons of simplification because it believed that, rather than remedying the differences pointed out by the Court of Auditors, it would hide them even more.

2. Fraud prevention

2.1. Customs warehouses

Paragraph 1.46.

Under Germany's revised service instructions on customs warehousing procedure, additional on-the-spot checks now have to be carried out at the subordinate level every two years at most, alongside the regular customs checks. This ensures that warehousekeepers carry out thorough *ex post* checks within the three-year period laid down for customs duties.

Paragraph 1.49.

a) In respect of goods re-exported from customs warehouses, the above revised national service instructions also directed the main customs offices responsible for authorizing customs warehousing procedures to permit transport of warehoused goods for discharge purposes between the customs office and the customs office of exit only under the external Community transit procedure (see paragraphs 98 and 99).

b) This brought massive protests from traders. Well-known companies and trade associations complained above all that the external Community transit procedure, now made compulsory:

- generated substantial extra costs,

- restricted flexibility (e.g. in obtaining spare parts, a process that depends on speed and can involve a large number of individual consignments every day, including some small consignments), and

- involved more work.

It should also be noted that:

- no notable irregularities had been found in the national procedures formerly in force, and

- goods can already be transferred **into** a customs warehouse without using the external Community transit procedure (see subparagraph (3) of Article 513(2) of Regulation (EEC) No 2454/93). Germany does not believe customs duties are at any greater risk during re-export than during import.

c) In its letter of 9 April 1996 (III B 1 - Z 0404 - 58/96), Germany asked the European Commission (DG XXI/B/6) to create a comparable rule for re-export between a customs warehouse and the office of exit to that governing imported goods; at the same time, it authorized the subordinate customs office to stop applying paragraphs 96 - 99 of the operating regulations until further notice (letter dated 9 April 1996: III B 1 - Z 1301 - 10/96).

d) This matter has been referred to on several occasions in meetings of the Customs Code Committee's Section for Customs Warehouses and Free Zones, where the European Commission has consistently supported Germany's opinion. A working document (XXI/1069/92 - Rev. 2; RED 124) recommends that the German procedure be adopted in the Customs Code Implementing Provisions. No objections of any note are to be expected from the other Member States since the Committee has discussed the issue extensively, and we can therefore expect the addition of the proposed paragraph (3) to Article 528 of Regulation (EEC) No 2454/93 with effect from 1 July 1997.

2.2 Agriculture

Paragraph 2.9.

Germany objects to the charge that a sample of four Member States (Germany, Spain, Italy and France) did not respect the deadlines laid down by the implementing regulations (Regulation (EEC) No 967/91) for forecasting expenditure (Article 3(1)), requesting advance payments (Article 3(1) "before 31 March"), presenting a breakdown of the expenditure (Article 3(3) "not later than 15 May") and reporting on the results of the measures (Article 7 "not later than 30 June").

The alleged failure to report does not concern Germany. It faxed the annual report required under Article 9 of Regulation (EEC) No 307/91 to the Commission on 3 July 1996 in the form set out in Article 7 of Regulation 967/91.

Germany also sent its forecast expenditure for 1995 and requests for advance payments to the Commission in its letter of 9 May 1996, and faxed a breakdown of expenditure on 1 July 1996. Some deadlines were overshot slightly because of late receipt of contributions from offices in the individual *Laender*.

Paragraph 2.11.

The Commission must resolve the question of whether or not VAT is eligible for part-financing once and for all, bearing in mind the European Court of Auditors' observations. Germany is not aware of any Regulation that expressly states that VAT is not eligible for part-financing.

3. EAGGF-clearance of accounts

Paragraphs 3.9 - 3.11

National guidelines of 7.1.1995 on estimating the weight of pigs were to have been used to estimate the number of animals slaughtered during the outbreak of classical swine fever in Lower Saxony. However, the temporary collapse of the market in the restricted areas meant that it no longer had market quotations on which these estimates could have been based in accordance with the guidelines. Nor was it feasible to weigh the animals as required, because of the numbers slaughtered. Updated guidelines on reporting ordinary values of pigs have since been adopted.

Paragraphs 3.24. - 3.27.

On the basis of checks carried out in January 1992, on 15 February 1996 the Court of Auditors "established that it was possible to retrace the paths followed by the individual lots of livestock purchased from producers to the point of leaving the slaughterhouse or weighing the lorry-load, after which the individual lots were packed together in containers and transported to a cold store or a rendering plant. However, the rendering plants did not produce any documentation certifying that the individual lot had been destroyed, or that all lots had been destroyed together."

In their answer the German authorities pointed out that although the rural districts did not have proof of disposal by the responsible veterinary authorities for individual lots, they did have this documentation for each collective consignment. Moreover, a number of rural district officials oversaw the loading, sealing and weighing of these collective consignments at the point of leaving the slaughterhouses and arriving at the rendering plants, thus ensuring unbroken monitoring of the disposal of the carcases.

Germany cannot therefore understand how the Court of Auditors comes to the conclusion that there was no documentation proving that this processing had been carried out and that there was a risk that the meat returned to the market.

4. Eligibility

Paragraph 2.12

The Court of Auditors takes the view that Baden-Württemberg's agricultural ministry failed to justify the DM 1.1 million declared for the use of the mainframe for CAP/integrated administration and control system measures.

Baden-Württemberg is currently developing its own Computing Centre, which has so far only been able to provide users with bills for total costs of using the system. It will only be able to provide costings for individual measures (e.g. processing farmers' claims, the point at issue here) from 1997 onwards, when it will have the facilities to produce separate accounts.

Since 1994, the *Landesamt für Flurneuordnung und Landentwicklung Baden-Württemberg* (Baden-Württemberg land redevelopment service; LFL) has used calculations based on a study carried out when the former ITZ computer was integrated into the mainframe to estimate the cost of all applications covered by the Baden-Württemberg agriculture ministry. It has sent its estimated costs based on these calculations to the Court of Auditors.

Baden-Württemberg's agriculture ministry therefore applied for a refund of costs relating to the integrated system, calculated cautiously on the basis of the above estimate; this refund is by no means prejudicial to the EU.

Paragraph 2.16.

The Court of Auditors is right to state that execution of the remote sensing in 1994 was insufficient.

When the 1994 tendering procedure was carried out several *Laender* selected (with the Commission's approval) a company working in this area for the first time, as it had put in a particularly low bid and given an extremely convincing presentation. Towards the end of the project, however, it became clear that the company was not in a position to deliver

Baden-Württemberg's results in a suitable format on time, since it did not have sufficient manpower and had not processed the data properly.

It should also be borne in mind that even if Baden-Württemberg claimed only 9% of the DM 18.8 million expenditure that had been agreed in 1994 for integrated system measures, the full amount of refund available to Germany could have been claimed, with Baden-Württemberg's share DM 844 800.29.

5. Monitoring

5.1. Monitoring flows of Community funds; monitoring recipients

Paragraph 6.33.

There were delays in paying funds to promoters under Objective 4 not just in North Rhine-Westphalia or Germany as a whole, but in all the EC Member States. This has been confirmed on several occasions by the European Commission, latterly in the 1996 Report on Economic and Social Cohesion (p.106). These delays are due to the new approach to funding adopted for Objective 4, for which there are still no established structures. The Community, national governments and beneficiaries also have to fund equal shares of these projects. It is proving difficult to coordinate between those involved. Further delays cannot be ruled out in future.

5.2. Coherence and complementarity in financing

Pargraphs 6.99. and 6.105.

**I. Leonardo**

1. The European Court of Auditors is largely correct in what it says about the transition from previous programmes to Leonardo. Before the new programmes were agreed Germany had tried to establish a transitional year for the previous programmes, so that it could start the new programme properly prepared. However, its proposal was not followed up.

2. The European Court of Auditors' comments on the two different applications procedures for Leonardo are also warranted. However, it is not currently possible to simplify procedures by developing one uniform procedure because of the Council Decision to the contrary. Nor is amendment of the Council Decision logical or feasible, because of the limited programming period that remains (until the end of 1999) and the expected difficulties in obtaining agreement. It should be pointed out that the dual selection procedure is ultimately due less to technical reasons than to a compromise between the Commission and the Member States with regard to which side should influence the selection of projects. The proposal that a uniform procedure be introduced in future could be taken up in Leonardo's successor programme, but it should be as decentralized as possible and allow the Member States to take important initial decisions.

   The Court of Auditors report complains that application deadlines are rather tight: over three months are now allowed for applications and this should be regarded as sufficient time. The time required for selecting projects and granting funds could be reduced by harmonizing the selection procedure and accelerating internal agreement within the Commission. At the moment several weeks usually elapse between the point at which the Leonardo Committee agrees on the final lists of projects and their official announcement by the Commission. Germany's initial attempts to speed up the procedure proved futile.

   The application form for Leonardo projects was also criticized: it is certainly too detailed and could be improved. However, it is already a vast improvement on previous forms, thanks to the efforts of the Member States and coordinating bodies. When evaluating the application form it should be remembered that, ultimately, it is a collection of forms for various support measures in the different programming areas, and that these different forms are still needed to deal with the different target groups, amounts of grants and funding prerequisites.

**II. Extent of Community support**

The Court of Auditors established that some on-the-spot visits had revealed that, where the Community funding was a low proportion of funding required, Leonardo projects

would have proceeded even without Community funds. Germany cannot comment on this observation since it does not have any further details of the projects involved. However, it would like to point out that EU part-financing may provide up to around 70% of the costs of Leonardo pilot projects, and Leonardo funding often makes up a substantial and frequently decisive part of overall financing. Germany therefore believes that only a tiny proportion of Leonardo projects in the Federal Republic are carried out without EU funding. Furthermore, it constantly has to turn down a large number of eligible projects because of a lack of funding.

## III. Financial controls

Since the Commission generally makes direct agreements with promoters of pilot projects that involve a large amount of funding, without involving the Member States or national coordinating bodies, these cannot be made responsible for carrying out financial controls on those projects. The Commission could carry out an audit itself or authorize external audit services to do so. German audit bodies monitor projects that are part-financed by German public funds.

## IV. Coherence, complementarity

It is true that certain objectives within the framework of the Leonardo programme overlap with those funded under the Community Initiatives ADAPT and Employment (e.g. target groups, instruments, etc.). Yet the Leonardo programme is often substantially oversubscribed in Germany, or at least is the object of considerably higher demand than the Community Initiatives ADAPT and Employment.

Germany takes the risk of duplicate funding into account as far as possible by making sure the responsible coordinating bodies compare the list of applications for pilot projects for each programme/initiative. However, the differences in application schedules and the fact that both Federal bodies and the offices of 16 Federal *Laender* have to implement Community Initiatives in Germany make comprehensive coordination more difficult. These problems are exacerbated by the fact that no final tendering deadlines have been laid down for Germany's national tendering procedure for the Community Initiatives in some cases.

The Federal Ministry of Education, Science, Research and Technology (BMBF) will in future send the Federal Labour Ministry (BMA) and its coordinating bodies for ADAPT and Employment all project lists for the Leonardo tendering procedure, together with details of promoters and project titles, etc. to allow them to compare information. Germany will attempt to overcome the structural difficulties currently involved in coordination before the next generation of programmes comes into existence.

**V. Socrates/Erasmus**

The figures quoted for the Erasmus chapter of the Socrates programme are not quite correct.

In 1995/96 161 000 Erasmus grants of ECU 72 (DM 140) per month were awarded to students throughout Europe to improve mobility. The EU Commission provided DM 22 902 000 for German Erasmus grants, equivalent to a monthly award of DM 130 per student. The following information on German recipients of Erasmus grants is available for the period between 1 July 1995 and 30 September 1996:

13 361 students claimed an Erasmus mobility allowance, taking up 55.7% of available places (99.85% of the German budget). The monthly award to students not in receipt of a German mandatory grant was DM 267. (The maximum grant is ECU 5 000 per student for up to twelve months' stay abroad and ECU 500 per month for shorter visits. The average grant is, however, generally much lower. The minimum is ECU 300 for a visit of 3 to 6 months or ECU 50 per month for a study trip of six to twelve months).

Funding the Erasmus chapter of the Socrates programme is rather problematic. Expansion of the content-base of the Erasmus programme and the Brussels policy of increasing participant numbers for the mobility measures by around 30% annually has not been matched by an equivalent increase in funding for the programme. The Brussels guidelines force a reduction in the monthly grant; otherwise, in order to maintain grant levels, Germany will only be able to authorize a proportion of the number of participants approved by Brussels and the take-up rate will fall.

Paragraph 7.16.

The Court of Auditors report does not reveal which cases related to Germany, or Italy, or Spain.

The standard clauses of the Community Support Framework (points 371 and 376) apply equally to all Member States; these do not expressly prohibit transfers of allocations between individual Structural Funds within an approved programme. The CSF Monitoring Committee can approve applications to transfer funds, if all involved are in agreement.

Use was made of this opportunity in the 1991-93 programming period. In the current programming period the problem of transfers of funds was discussed in detail using the example of the Community Initiative Leader II at the November 1996 meeting of the CSF Monitoring Committee. An amendment will be proposed at the next CSF Monitoring Committee meeting in June 1997.

The procedure proposed for the follow-up to the European Court of Auditors' annual report for the financial year 1995 departs somewhat from what was decided by the Personal Representatives Group under the SEM 2000 initiative and is in danger of misrepresenting the collaboration procedure agreed by the Finance Ministers on 2 December 1996 and the Heads of Government on 14 December 1996.

According to Article 188 of the Treaty, the European Court of Auditors addresses its observations to the Commission and not to the Member States. This is why the initial proposal (that the annual report by the Court of Auditors should be subject to an adversarial procedure not only with the Commission but also with each of the Member States) was rejected.

It follows that when the Council (i.e. the Member States) invites the Commission to present a report as part of the discharge procedure, the intention is not to have every Member State comment point by point on each section of the annual report where they are mentioned. In other words, there is no question of the Commission escaping its obligations in this respect.

Similarly, it is not a question, at the discharge procedure stage, of confirming or refuting the validity of the findings, since the Court of Auditors is supposed, in collaboration with the Member States, to have already verified the facts in the course of an adversarial procedure which must take place before the annual report is finalised (namely during the audits in the Member States and in the period immediately following them).

In practice, this verification process involves the competent member of the Court of Auditors sending out sectoral letters, which request supplementary information or set out provisional conclusions based on the findings of the auditors. One ongoing problem with this procedure is that the sectoral letters are sometimes delayed and are sent months after the audits have been carried out, even though the draft annual report has already been compiled. Moreover, in contrast to national reporting practice in the Member States, the Court of Auditors does not indicate why it insists on making certain comments even where they have been refuted by the competent authorities in the Member States. All that is required to avoid the breakdowns currently inherent in this system is an improvement in communication between the Court and the national bodies and strict adherence by all to procedural practice. No new procedures (which could anyway prove to be counterproductive) are required to deal with this situation.

This, however, does not preclude assisting the Commission by pointing out certain areas where significant improvement is desirable in the systems that the Court of Auditors itself has rightly criticised as functioning imperfectly.

Unfortunately, for the 1995 discharge procedure, this task is complicated by the rather desultory, even fragmented nature of the annual report. As in the previous year, the work undertaken by the European Court of Auditors seems to be seriously influenced by other activities, such as those connected with the statement of assurance. There seems little to comment on in Belgium's case, especially in the light of the specific references to other Member States in the annual report. The conclusion that could be drawn from this is that the situation in Belgium is satisfactory and does not call for any particular changes.

However, in a certain number of areas, the following considerations must be taken into account:

As far as the recovery of own resources is concerned, we are looking forward to the implementation of the Commission initiatives announced as part of the SEM 2000 project, aimed at tightening the relevant legislation in order to rectify weaknesses in financial management. We particularly welcome the necessary adjustments and explanations in the booking entitlements established and recovered and the arrangements for charging interest on late payments, as well as the requirement that time limits for payment be exactly specified, in order to increase legal certainty. In the interim we will make the utmost efforts to ensure that the entitlements are recorded not only on the basis of the existing rules but also, as far as is possible, taking into account the additional recommendations made by the auditors from the Commission and the Court of Auditors.

As far as laying down and using a set of accepted reference values such as GDP is concerned, we are mounting an intensive effort to modify our accounting system, with the aim of being able to update our figures rapidly and accurately. In the light of these efforts, we hope that the departments in the Commission will endeavour to integrate our updated figures in all the relevant areas. However, should there be any difficulties in the future, we would be obliged if you would inform the Belgian departments in good time.

Finally, as regards fraud prevention, we are in complete agreement with the answers given by the Commission. Priority will be given to selective audits based on detailed risk analysis.

Apart from a certain number of general directives and legal checking mechanisms, we are mainly relying on specialised training and the experience of the audit staff concerned to carry out this work.

Denmark's reply to the Court of Auditors' observations during the 1995 discharge procedure

**Aid for investment in the processing and marketing of fisheries and aquaculture products**

The Court of Auditors criticised the payment of aid to firms which later go bankrupt. This criticism is not directed against Denmark alone.

When aid is granted to private firms, the viability of the firm and the project are always evaluated. This evaluation is based on the information available, including details of the firm's finances, and other relevant data such as the firm's production potential.

According to the competent authority (Structures Directorate), the rare cases in which a firm has gone bankrupt after receiving aid could not have been predicted.

Furthermore, Denmark is stepping up its controls on the implementation of these projects. As part of this work, a new audit guide will be drawn up for auditors certifying the accounting information relating to implementation.

**The Court of Auditors' criticism of Danish controls on feta cheese**

The feta case relates to the payment of around DKR 4 billion in refunds on the export of feta cheese over the period 1989-95.

In March 1993 the Court of Auditors launched an enquiry into the legality and regularity of refunds on the export of feta cheese from Denmark in order to examine the nature of the quality control information available and consider its use in the context of *ex post* control of refunds on feta exported from Denmark.

Feta cheese in Denmark was and is subject to three control systems which pursue different objectives, are normally conducted at different periods after the cheese is produced and are based in part on different control parameters.

There are the EU export checks laid down by regulation (Regulation No 386/90 on monitoring), the control on feta for Iran, based on a private agreement with the State purchasers in Iran, and the national control under the Danish Cheese Regulation (the "routine test").

In the Court of Auditors special report No 1/94 of March 1994 on major beneficiaries of export refunds, the Court stated that Denmark had not demanded repayment of export refunds as a result of negative analysis findings by the national control systems (the control on feta for Iran and the routine tests).

Denmark had already informed the Court of Auditors in spring 1993 that it saw no reason for demanding repayment of the refunds.

The Court continued its enquiry. In its final report in autumn 1996 the Court concludes that some 3.3% of the samples of feta cheese analysed by the Veterinary Directorate Laboratory in the course of the year did not satisfy the refund stipulations. The Court therefore feels that 3.3% of the refunds, a total of around DKR 120 million, should be repaid.

In February 1995 the EU Directorate informed the Commission of the Court of Auditors' enquiry and Denmark's position.

In spring 1996 the Commission stated that it wished to investigate the case. The Commission's enquiry covered the years 1992-95. As for the period 1989-91, which was also covered by the Court of Auditors' enquiry, it should be noted that the accounts have been definitively closed. The enquiry has since been sub judice. The Danish authorities have given an account of the case and provided the Commission with extensive technical documentation.

Analysis of all the negative samples available reveals that there was no unjustified payment of export refunds in the vast majority of cases since the rejected batches were either not exported, were not exported until they passed a new test or were melted down, etc.

For a small number of feta consignments, it was not possible to obtain sufficient evidence of what exactly had happened a number of years ago. In some isolated cases it may now be assumed that consignments of feta cheese were exported regardless of whether there was proof of the conditions being met. Finally, as no evidence was available, the Commission calculated that the amount disallowed in respect of exports in 1994 was the same as in the other years.

In view of the above, the Commission's overall conclusion from its enquiry is that over DKR 3.7 million of Danish expenditure on export refunds between 1992 and 1995 will be disallowed in connection with the forthcoming final closure of the 1994 accounts. The DKR 3.7 million disallowed should be compared with the DKR 120 million or so suggested by the Court of Auditors.

It should also be pointed out that the three control systems were reorganised in 1995, with the result that responsibility for all quality control of feta cheese now lies with the Plants Directorate and feta consignments coming under the national quality control system are now monitored by the Plants Directorate, with the regional customs and taxation office being informed of the results.

## Comments concerning Spain in the Court of Auditors' Report

# 1. OWN RESOURCES

## 1.1 Transitional system for VAT

**Paragraphs 1.73, 1.83 and 1.90**: With respect to VAT identification numbers which have been cancelled but continue to be given as valid on the VIES database, according to Article 12(2) of Royal Decree 1041/1990 of 27.7.1990 concerning income tax returns to be presented by firms, professionals and other traders, any taxable persons must declare that they have stopped trading within one month of the day following the day on which they ceased to trade. This applies to all traders, including those engaged in intra-Community trade.

In any case, this point (cancelled VAT identification numbers), as the Commission notes, is a question for the Standing Committee on Administrative Cooperation in the field of indirect taxation (SCAC), whose conclusions should not be prejudged.

With respect to the risk of fraud under the transitional system, its introduction has been satisfactory and its application has not led to any increase in tax fraud. The conclusions of the Commission report of 23 November 1994 on the operation of the transitional system should be recalled.

Concerning the adoption of a new common system of VAT as being "the only sure way of eliminating the risks that have always been linked to intra-Community transactions", it should be noted that introduction of such a system calls for the adoption of wide-ranging measures to bring about the harmonisation of rules, organisation and the reinforcement of mutual cooperation between administrations. For this a medium-term and a long-term approach is called for as set out in the Commission document dated 10 July 1996, *A Common system of VAT: A programme for the Single Market.*

# 2. FRAUD PREVENTION

## 2.2 Transit procedure

**Paragraphs 1.50 to 1.52:** The measures to simplify formal obligations are more relevant in Spain than in other Member States on account of the large number of taxable persons compared with the number of inhabitants and the numerous small businesses which have to fulfil requirements for this tax.

In addition, the Spanish customs authorities have launched a major computerisation programme with a twofold objective: to minimise the indirect costs of collection and to simplify controls. Similarly, on 5 July 1996 the Council of Ministers entrusted the State Secretary for the Budget with the development and execution of a two-year plan to improve tax collection and to step up efforts to combat tax and customs fraud; its implementation will bring about an improvement in the control measures applied by the Spanish authorities.

Finally, with respect to application of the external transit scheme in Spain, the Court of Auditors notes that the Commission should undertake a more in-depth study than either it

or the Court itself has carried out so far, thereby providing an opportunity for the measures adopted by the Spanish authorities to be reviewed and extended.

## 3. CLEARANCE OF ACCOUNTS

**Paragraphs 3.70 and 3.71:** A number of bilateral meetings have taken place between the Spanish authorities and the Commission since the hearing on the management and control of production aids in the olive oil sector in 1993, and a number of on-site visits relating to the aid have taken place.

With a view to correcting some of the shortcomings a supplementary study was made of the quantity of oil pressed in the last three years, showing that production is greater than the quantity for which aid is received, thus there is no risk of losses to the EAGGF budget.

## 4. ELIGIBILITY

The eligibility of expenditure under the Structural Funds was covered by the SEM 2000 initiative. It gave rise to the adoption of a number of guidelines to determine the eligibility of the disputed expenses incurred under the various subsidised projects, applicable from that year, thus meeting the Court of Auditors' concerns.

Notwithstanding the foregoing, the specific points in the report give rise to the following comments:

**Paragraphs 4.83 and 4.84:** Following the checks made by the Intervención General de la Administracion del Estado (IGAE) in some cases it was found that a certified expense did not necessarily correspond to a payment made at the time the operations were certified in order to receive the related advances, although in general payments were made within the period of eligibility.

When it audits the investments the IGAE always verifies the reality of the payments made, payment being taken to mean the material disbursement of funds. Payments must always be made within the period of eligibility of the project.

**Paragraphs 4.87 and 4.88:** Without prejudice to the treatment of leasing established in SEM 2000, the sole criterion applied by the IGAE up to now to determine whether or not the expenses incurred in this way are eligible costs has been the existence of a firm commitment to purchase the goods in question. Thus there is no difference in the treatment of this type of project and conventional loan operations. In accordance with Spanish law, as soon as ownership of the goods in question is acquired, the amount of the principal (purchase price of the goods) is considered eligible but not the interest resulting from future payments.

## 5. CONTROL

### 5.1 Control of the allocation of Community funds and recipients

**Paragraphs 4.77 and 4.78:** Whenever checks of the various Community funds revealed delays in payment to final recipients, the IGAE reported the findings in the inspection reports and recommended strict compliance with the relevant legislation.

**Paragraph 6.67** Further to this comment, the current system of controls is described below:

1. In Spain, *ex post* controls of financial aid under the ESF are carried out by the IGAE, the Intervenciones Generales of the autonomous communities, the Inspección De Trabajo and the ESF administrative unit. Each financial year the checks made by these bodies form the national plan of inspection for the Social Fund.

In addition to the specific checks made by the Inspeccion de Trabajo,which in 1994-95 amounted to 12 000 checks, the breakdown of *ex post* checks made in 1993, 1994 and 1995 is given below.

| Year | Checks by IGAE | Checks by IG autonomous communities | Checks by ESF administrative unit | Total |
|---|---|---|---|---|
| 1993 | 98 | 46 | 13 | 157 |
| 1994 | 99 | 77 | 13 | 189 |
| 1995 | 99 | 77 | - | 176 |
| **Total** | 296 | 200 | 26 | 522 |

In addition, under the protocol it signed with the Directorate-General of the Commission, the IGAE carried out three inspections on the management of the FIP plan in the autonomous communities of Valencia, Galicia and Catalonia. The first of those was sent to DG XX on 21 February 1996, and the other two will be sent as soon as the final reports are ready.

From the foregoing it is clear that many checks of the ESF have been made, and that the Spanish authorities are expending considerable effort on verifying that the assistance is provided correctly.

2. The criteria for selecting the ESF beneficiaries to be inspected by the IGAE are as follows:

(a) In the light of the findings of the checks, together with the information provided by the ESF administrative unit, risk sectors where a greater probability of fraud and irregularities has been identified are targeted.

(b) in these higher risk sectors beneficiaires who meet the following conditions are targeted:

- greater volume of aid compared with the total payments to each beneficiary, either in the year before the Plan (FIP plan, employment or further training) or during the years when the courses were taking place (school workshops);

- if irregularities are noted in organisations operating in different parts of the country, checks are made of aid applications from the same beneficiary in different geographical areas;

- account is taken of inspection visits by the Commission staff for the purposes of the national inspection plan and the protocol, to include requests for checks and to pinpoint the risk sectors in the light of the conclusions of the inspections and to avoid duplication.

3. The audit programme and methodology

(a) Work programmes are drawn up to serve as a basis for the checks to be made by the IGAE. They establish the objectives, procedures and tests needed to meet the objectives.

(b) Work programmes are updated annually and take account of any changes in Community or national legislation, and tests are extended to sectors where a higher risk of irregularities was noted.

(c) In addition, the IGAE checks of systems and procedures provide a complete overview of procedures for processing and granting aid, and for monitoring the projects financed and their effectiveness, with a view to detecting any management flaws; checks are made to ensure that the requirements and conditions of Community and national legislation in force are met with respect to the management, granting, utilisation and destination of aid; checks are made of the effectiveness of training activities and to ensure that the financial flow corresponds to the final use of funds.

(d) The audit methods and procedure are set out in IGAE Circular No 2/96, *Normas de Auditoría del Sector Público*, and other instructions and guidelines issued by the IGAE.

4. With respect to the handling of reports, the only inspection reports which must be sent to the Commission are those coming under the protocol signed between the IGAE and the Directorate-General for Financial Control at the Commission. In other cases, although the normal procedure laid down in Community legislation relating to checks by the Member States does not require the inspection reports to be sent to the Commission, the main findings of the checks are notified under Article 3 of Regulation (EEC)1681/94. Thus any irregularities detected are communicated quarterly to UCLAF. Up to now, 50 cases of irregularities have been notified amounting to an estimated PTA 1 057 million.

Under the normal procedure for forwarding reports no provision is made to send the reports to the Court of Auditors.

**France's replies to the comments of the European Court of Auditors in its Annual Report concerning the financial year 1995**

(The paragraphs referred to are those in the Report of the Court of Auditors, published in the Official Journal of 12/11/1996)

**Paragraphs 1.20 to 1.23, 1.47**

On the subject of inward processing, the Directorate-General for Customs shares the Commission's view

(page 46 of the Report) and believes that, given the Community legislation currently in force, the cases identified do not constitute infringements.

With regard to paragraph 1.47 on customs warehouses, it should be noted that Community regulations do not require Member States to issue specific instructions for each economic procedure. The arrangements for *ex post* checks, for example, are laid down for all customs procedures in a framework instruction on post-clearance checks dated 29 February 1980 (instruction No 80-S-34, BOD No 3922 of 29 February 1980). It is thus inaccurate to suggest that warehouses are not covered by national instructions on *ex post* checks.

**Paragraph 1.73**

The Court found that cancelled VAT identification numbers could appear as still valid in the VIES network. This is primarily the result of:

- the time taken to alter information in the VIES,
- the time allowed to traders to inform the authorities that they have ceased trading, during which their identification number remains valid in the register of traders.

The following comments are in order here.

1) Updating of register of permanent taxable persons (FRP)

   The tax offices enter the date of cessation of trading into the FRP as soon as they know it. This update is in turn uploaded directly into the central customs computer which can access the files of the other Member States (VIES). This operation cannot be carried out in real time.

   These transfers are made every evening, so French company data in the taxable persons database is updated daily.

   In view of the constraints, there would seem to be no further scope for reducing the time taken for updating, which has been cut to a maximum of 24 hours.

2) Time limit for informing the authorities of cessation of trading

   Under Article 22 of Decree No 88-406 of 30 May 1984 on trade and company registration, traders must declare cessation of trading within 30 days. This is a statutory deadline which would be difficult to circumvent, given that its main

object is to enable traders to regularize their situation, particularly vis-à-vis various administrative departments. They are required to close their accounts and liquidate their assets and liabilities.

It is thus impossible to update the taxable persons database in real time. It is therefore up to traders to obtain every possible guarantee at the time of invoicing, by keeping a record of the check of validity of the intracommunity VAT identification number in the taxable persons database. In the case of a dispute, Council Regulation (EEC) No 218/92 of 27 January 1992 provides for administrative cooperation in VAT matters, the essential complement to measures to combat international tax fraud.

**Paragraphs 1.82 and 1.83**

It is true that there are considerable discrepancies in the Intrastat data between the figures declared by countries as dispatches and those relating to arrivals, whereas in theory one country's dispatches are another's arrivals.

This discrepancy predates the Intrastat system, going back to a much earlier time when the data were based on customs entries. The Intrastat system cannot be blamed for the emergence of these discrepancies in mirror-image statistics, even if their significance has increased since 1993.

The discrepancies may be partly explained by the thresholds to reduce the number of declarations small and medium-sized businesses are required to make, such a system of thresholds having been introduced with the Intrastat system: businesses with a turnover below a specified amount are not required to make a declaration. The level of these thresholds is determined by each Member State. They may be different for arrivals and dispatches, and the differences between Member States are significant. The French threshold is 250 000 francs (annual figure for arrivals or dispatches), whereas the figure set by Ireland is 4.5 million francs for dispatches. This being the case, it is only logical that discrepancies should be found between declared exports in one country and declared imports in another.

Another cause of discrepancies is the failure of some businesses to submit statistical returns. Some Member States correct their statistics to take account of this, but the correction is not straightforward and may introduce discrepancies between countries at the level of exchanges by product and country. For example, the corrections made for the Netherlands in 1995 resulted in a 14% increase in the figure for exports and a 19% increase for imports. In this particular case, the correction might have been the source of further discrepancy. In other countries the estimates are not always broken down in detail by partner country, which makes the mirror-image comparison even more difficult.

France does not make such corrections, but carries out a large number of checks to make sure that the declarations it receives are comprehensive. Over 6 000 checks were carried out in companies in 1996.

**Paragraph 2.9**

The delay in supplying forecasts, the expenditure breakdown and the report on the results of the measures is due to the large number of contributors involved and the checks carried out before the documents are sent.

**Paragraphs 2.12 c) and 2.13 c)**

As was explained to the Court following its visit of 18-21 March 1996 with respect to 1994 IACS expenditure, it is the fact that personnel costs are entered in a separate budget heading devoted entirely to IACS expenditure that guarantees their eligibility for part-financing (see copy of the reply of the DGA dated 29 May 1996).

In addition, in response to the Court's comments, France has taken steps to collect the supporting documents requested from the 93 departmental agriculture and forestry divisions (names and functions of the officers concerned). These documents confirmed the eligibility of the expenditure submitted to the Commission (see copies of lists sent to the Commission on 6 December 1996).

**Paragraph 2.13 Monitoring and detection of fraud and irregularities**

The Court states that "in France, no link could be made in some cases between payments and eligible measures, while for personnel costs no supporting documents demonstrated clearly the function of the agents concerned. Finally, as with IACS, no control is carried out at national level before the declarations are submitted to the Commission".

In its conclusion, at point 2.18, the Court states that "neither the Member States nor the Commission rigorously monitors and controls the declaration of costs for Community part-financed schemes. This failure has cost the Community budget ECU 16.6 million. Moreover, some actions financed had limited or unsatisfactory results (see for instance paragraphs 2.13(b) and 2.16). The Commission should carry out detailed enquiries on the whole of direct expenditure and deduct any amounts unduly paid from future advances."

In response to these criticisms, the French authorities would make the following points:

*1. Lack of link between payments and eligible measures (equipment)*

The Court's remarks particularly refer to vehicles and computer equipment.

In some cases it was difficult during the visit of the Court's auditors to supply the invoices corresponding to the vehicles purchased under the part-financing arrangements. The vehicles had been acquired as part of larger orders and were used to reinforce the operational potential of units responsible for carrying out checks, in order to satisfy Commission monitoring requirements. The same applies to computer equipment. The decentralized departments keep an inventory of their computer resources, specifying the type of equipment and where it is deployed, but they do not record the origin of the funds used to buy it.

Before payment of the balance for 1995, the Commission requested supporting documents. These were recentralized and sent to the Commission, which examined them in detail before transferring the balance.

*2. Description of the functions of the personnel concerned*

A list of the names of the personnel concerned with a description of their functions was supplied to the Commission by way of a supporting document for payment of the balance for 1995 (Part-financing under Regulation (EEC) No 307/91). This presented no major problem for the French authorities.

Eligibility was thus formally established for 1995 and could be established for 1994 if required.

*3. Lack of national and Community control*

The French system was premised on the accountability of the various participants (government departments and public bodies). These are, by their nature, subject to numerous controls. It was not deemed necessary to introduce an additional control level.

In addition, the Commission itself monitors the eligibility of requests for part-financing on the basis of the declarations of expenditure and the annual report.

The Court's conclusions therefore seem excessive.

**Paragraph 3.77**

The French authorities were asked to confirm that the goods that were the subject of five T5 control copies issued in Italy between 1987 and 1989 were indeed released for home use in Réunion.

It emerged from the subsequent enquiry that:

- the stamp and signature placed on the T5 of 4.11.1988 by the customs office in Le Port were authentic, proving that the goods referred to in these documents were indeed released for home use in Réunion;

- the customs clearance certificate of 17.2.1989, relating to T5 No 31/E, proves that the goods to which it refers were released for home use; the stamp on this document is authentic;

- in the case of T5 No 57, issued on 27.8.1987 by the Italian customs office in San Benigno, the destruction of the archives of the year in question has made it impossible to trace the corresponding declaration of release for home use in Réunion. However, the stamp No 5 that appears on the back of this T5 was in use in the customs office in Le Port, strongly suggesting that the goods in question were released for home use in Réunion.

- As regards the customs clearances by the St Pierre customs office, relating to the T5s of 24.4.1989, 11.5.1989 and 12.6.1989, the customs declarations lodged at the time were destroyed in line with normal practice for destroying archives after a given period, in accordance with permanent instructions from the Directorate-General for Customs and Indirect Taxes. Although the photocopies of the stamps on the back of these documents are of poor quality, there is no reason to doubt their authenticity. They are all identical, and the stamp and signature of the official on the back of the T5 of 11.5.1989 are authentic and confirm the arrival of the goods in Réunion and their clearance through customs.

The documents together relate to 1 621 tonnes of rice.

**Paragraph 4.27 - Statistics on checks in the fisheries sector**

The Court of Auditors blamed the division of responsibilities for surveillance and the monitoring of infringements between several bodies for hampering the updating of related information at the central level in Spain, France and Portugal.

Fishery control policy is determined by the Ministry of Agriculture, Fisheries and Food. The role of the Maritime Prefects in implementing national maritime policy is to coordinate overall deployment of resources (customs service, police, maritime affairs, the navy) and preserve public order.

As regards the organization of surveillance, the air, land and sea resources used for this purpose are indeed answerable to different administrations, but they operate within the framework set out in the previous paragraph: Ministry of Infrastructure, Housing, Transport and Tourism for maritime affairs, Ministry of Defence for the National Navy and maritime police, Ministry of Economics and Finance for the customs service. On the practical level, the coordination of these resources, which is carried out by regional search and rescue centres (CROSS) presents no particular problems.

The Commission report on monitoring in 1994 shows that this type of organization is not unique to France, and a comparison of the number of inspections carried out at sea by certain Member States shows France in first place in 1994 with 8 728 effective controls, ahead of Portugal (8 330), the United Kingdom (4 509), Germany (4 488) and Denmark (616).

The maritime affairs monitoring and surveillance arrangements have been undergoing reorganization since 1993. They comprise two elements:

- a flotilla of eight regional patrol boats primarily responsible for fisheries monitoring for the Community in offshore waters, plus a 46 metre deep-sea patrol boat acquired on 31 December 1996, which should be put into service in the Bay of Biscay in the second half of 1997;

- a network of coastal affairs units (ULAM) that decide on the scope and level of coastal maritime activities at the level of the *département*.

The operational principle underlying the new system is that officials should be mobile and equipped with light nautical vessels and motor vehicles in order to ensure surveillance of the entire fishing sector: checks at sea, on the quayside, at the time of unloading and at the auction and sales outlets.

The ULAM system is being set up gradually, but certain positive results are already apparent:

- efforts of the regional patrol boats and the ULAM are complementing one another, resulting in better surveillance of the whole industry, from the fishing grounds to the point of sale;

- flexibility of response, in keeping with agreed priorities, regardless of location or time;

- better motivation of the officials thanks to a dynamic human resource management policy that will reorganize the ten small units that currently exist into two or three specialized units.

The Ministry (Department of maritime fisheries and marine aquaculture) is trying to improve the scope of the monitoring statistics. Until 1995 the data from the navy and the police were incomplete, but the ministries concerned are now being asked to supply the details required by Commission Regulation (EEC) No 3561/85 of 17 December 1985. The information for 1996 has just been requested.

It is true that there are problems in finding out what judicial sanctions were imposed for infringements of the maritime fishing regulations because of the length of the proceedings, the many different courts and tribunals involved and their heavy workload.

These difficulties were already identified in the Gerolami report (pages 34 and 58) on the coordination of state measures relating to the sea, presented to the Prime Minister on behalf of the Central Committee of Inquiry into the costs and performance of the public services. The author concluded that the punishment of infringements was hampered by the way the courts were organized, which did not allow maritime cases to be centralized and heard by specialized tribunals. The report called for the centralization of prosecutions for infringements, which would be heard by specialized courts, like those operating on a trial basis in the environmental field.

The decentralized maritime affairs departments always try to enforce the penalties imposed as soon as the judgment is handed down.

**Paragraphs 4.35 and 4.36 - Implementation of the annual programmes**

The Court reported that the proportion of expenditure eligible for Community aid in France in 1993 was lower than the advance granted for that year.

It is true that a significant proportion of the investment programme planned for 1993 could not be carried out because of spending cuts imposed by the budget ministry:

- nautical resources for maritime affairs: forecast: FF 16 344 000, actual expenditure: FF 8 667 260;

- vehicles for coastal units: 20 planned (FF 1 280 000), 12 bought (FF 828 088);

- modernization of CROSS: planned expenditure: FF 23 000 000, actual expenditure: FF 7 030 103;

- statistical programme: forecasts: FF 3 222 000, no expenditure actually carried out because no funds allocated from national budget.

Out of a total programme of FF 43 846 000 presented in 1993, eligible expenses amounted to FF 43 736 000. An advance of FF 10 765 932 was obtained. However, only FF 15 235 128 was actually spent, with EEC aid at 50% amounting to FF 7 617 565.

The surplus of FF 3 148 367 was counted by DG XIV as the first instalment of the advance for 1994.

It proved impossible to carry out the 1994 and 1995 investment programmes in full for the same reason.

Finally, a contract was signed with Thomson on 31 December 1996 for the purchase of the 46-metre patrol boat, the main element of the programme for that year. Payment is due at the end of February 1997 in a single instalment (FF 25 million), after the vessel has completed its technical assessment and sailed from Toulon to Lorient where it will be put into service.

The spending freeze also affected the purchase of motor vehicles and made it impossible to carry out the planned expenditure (FF 826 019 for 10 vehicles). Investment totalling FF 106 065 excluding tax was made in 1996.

**Paragraph 4.45 - Pilot project for monitoring the position of fishing vessels by satellite**

France decided to test three satellite systems available on the market in 1994 (Argos, Butelsat and Inmarsat). The funding for this project, which was entirely covered by the Community budget, covered the installation of mobile units in the fishing vessels, the monitoring stations set up at the CROSS in Etel and the transmission of hourly position reports.

France should have fitted out 67 vessels, but the cost of the mobile units was such that only 57 vessels could be equipped. However, the main purpose of the trial was to test the reliability of the three systems at sea and the compatibility of the equipment fitted with other safety equipment carried by vessels (such as G.P.S.).

French fishermen will be able to choose which system is fitted in their vessels when satellite monitoring is introduced, in theory from 1 July 1998 for certain vessels.

**Paragraph 4.67 - Company failure**

We share the view expressed in the Commission's reply about the risk inherent in business activity, except as regards the possibility of assessing the future profitability of the companies selected. It is easy to evaluate the profitability of a company retrospectively, but much more difficult to make predictions.

**Paragraphs 4.77, 4.80 and 4.81: delays in payment of subsidies**

Administrative rules connected with budgetary procedures make it impossible to comply with the five-week payment deadline. A number of physical and documentary checks have to be carried out to ensure the legitimacy of the payment, before it is actually transferred to the final beneficiary.

Many final beneficiaries fail to produce the documents attesting to the regularity of the payments spontaneously, which immediately delays the payment procedure.

In addition, there are many small projects receiving subsidies in this sector and the beneficiaries often have difficulty in preparing the dossiers required for payment.

In an effort to simplify the administration, the French authorities plan to devolve the FIFG decision-making and payment procedures. Although this should speed up the procedure, it will not guarantee that the five-week deadline will be met.

**Paragraph 5.15**

The closure of the non-quota measures for steel, textiles and shipbuilding has led to a disagreement between the European Commission and France about the method of calculating the sums to be refunded.

Although France does not dispute the principle of closing old measures and repaying money that is unspent, it believes that the sums claimed by the Commission do not correspond to the actual state of the programmes.

The negotiations with the Commission allowed France to explain its position and resulted in the amount overpaid being set at ECU 9.3 million, a figure which corresponds to the final financial balances of the programmes, which the Commission has accepted.

**Paragraph 6.33**

ESF funds are credited to the budget of a ministry in accordance with the terms of Article 19 of the 1959 Order, following the procedure for contributions.

Contributions are dealt with by an exceptional budgetary procedure whereby funds can be made available over and above those appearing in the Finance Act, without prior legislative authorization, and used to meet certain expenses, by way of exception to the universality principle.

European funds, therefore, although they are allocated to a particular budget chapter of a particular ministry have a different implementation nomenclature from appropriations voted in the Finance Act.

**Paragraph 6.34**

ESF funds are monitored by the Ministry of Labour on an individual basis, by objective, by programme, by year and by type of payment.

The funds are credited to public bodies, accompanied by all the information necessary for carrying out individualized financial management, on both the revenue and the expenditure side.

The AFPA accordingly receives clearly identified funds from the Ministry of Labour which it can then appropriate and spend on targeted and programmed operations.

**Paragraph 6.50**

The concept of "expenditure incurred" is defined in the financial provisions of the standard clauses annexed to Commission decisions.

Once the concept had been clarified with the Commission, it was explained at length to the departments administering ESF funds and to the organizers of individual projects.

Circular CDE No 96.7 of 15 March 1996 on applications for payment for all programmes part-financed by the ESF explains that expenditure incurred is equivalent to payments or transfers made by the final beneficiaries and supported by receipts or other accounting documents providing an equivalent level of proof. This expenditure is established in the context of the monitoring of programming and includes all of the eligible costs for the activities approved under the measures part-financed.

**Paragraph 6.51**

Circular CABTEFP 9/94 of 9.09.94 informs and reminds all public and private training organizations involved in managing and implementing operations part-financed by the ESF that they must use a system of separate accounts or an adequate codification of all the transactions concerned.

These requirements are included in a special clause in all of the agreements that have to be signed between the public bodies part-financing activities and the project organizers.

The results have been apparent since 1995. France is continuing its efforts to ensure that all training organizations and umbrella organizations for projects adopt a transparent accounting system.

**Paragraph 6.53**

The Court's comment refers to an audit carried out at the AFPA,which was found to base its expenditure declarations on estimates.

The AFPA was asked to correct its application for the balance on the basis of actual expenditure declared and backed by supporting documents by the regional AFPA centres.

Comments were also made to the DFP which should present more reliable statements of expenditure in 1996.

**Paragraph 6.67**

The Interdepartmental Audit Coordination Committee (CICC), created by decree No 93.985 of 5 August 1993, was set up on 19 January 1994 and began work on 4 February 1994 when it met for the first time.

The first initiative of the ESF section of the CICC was to define the ways in which the various audit bodies in France operate.

This led to the Inspectorate-General of Finance (IGF) and the Inspectorate-General of Social Affairs (IGAS) carrying out a joint audit of certain activities part-financed by the ESF, acting on the basis of a 1994 audit proposal.

The results of these audits were passed on to the Commission (DG V and DG XX) under the partnership arrangement between the respective departments instituted by the draft agreement between the competent authorities.

At the end of these audits the IGF and IGAS produced a methodological guide to ESF audits, which was widely distributed among other audit bodies answerable to the

Ministry of Labour and Social Affairs, the National Audit Group - the national body - and the regional audit departments.

The guide has been updated to take account of changes connected with the Community regulations of 1993.

Specialized training has also been organized to prepare auditors for their new role.

In 1995 the CICC laid down targets for the standard and number of audits to be carried out by the regional audit departments which were implemented satisfactorily and have now been renewed.

The quantitative target that has so far been met is 137 notifications sent to the organizations inspected by the regional audit departments.

The Ministry of Labour and Social Affairs is currently examining the action to be taken in response to these reports.

Numerous corrections are being studied and should result in the recovery of ESF funds.

The conclusions of this exercise and the new administrative procedures introduced will be reported in a double communication to the Commission (DG V and DG XX) and will be used in the report to be presented by the ICLF (Anti-fraud Coordination Unit) to UCLAF on 30 March 1997.

**Paragraph 6.68**

The Ministry of Labour has reminded all departments managing ESF funds and all project organizers of this statutory requirement on the length of time during which documents must be kept.

However, in the case of the AFPA mentioned by the Court, the only documents missing were the attendance records of trainees at courses, to which the provisions did not apply. All other documents are kept by the organization for 10 years, i.e. beyond the time required by Community regulations.

**Paragraph 6.69**

While the national authority responsible for the certification of applications for advances and balances has no audit powers, it relies on the initial certificates which provide a guarantee of the number of educational, technical and financial checks carried out by the regional or departmental audit services.

If the Prefect of the region considers these checks insufficient he has the power to order a more detailed investigation by his departments.

Similarly, the Ministry of Labour may call on the Inspectorate-General of Social Affairs in the case of any training activity where it has reason to doubt the reliability of the certified declarations.

**Paragraph 6.99**

The decision of 14 March 1995 adopting the Socrates programme states that in the case of Erasmus students "the Community grants are intended to defray part of the additional costs incurred by mobility" (Annex, chapter 1, paragraph 3). They thus complement students' own resources, whatever their origin. This financial incentive, however small, has played an important role in encouraging student mobility in our country. It remains necessary.

The other benefits offered by the programme (particularly the guarantee of integration in the university course and the academic recognition of periods of study abroad) are also significant incentives to mobility. Some students, particularly from the most privileged social backgrounds, could be regarded as Erasmus students without grants, and this is an idea the Commission is considering. The Ministry of Education, Higher Education and Research has doubts about the merits of such a measure, which would entail revising the system of allocating Community grants that has been used to date.

## 1. Own Resources

### Transitional VAT system

Paragraph 1.73

In accordance with the replies from the Commission and our Directorate 14 (VAT and special consumer taxes) to the special Court of Auditors questionnaire concerning the transitional system for VAT on intra-Community transfers, which were forwarded to you with our letter referred to above, the problem regarding retrospective cancellation of VAT identification numbers has been identified by the departments responsible and is being monitored through the SCAC.

Paragraph 1.83

In Greece the Intrastat system is fully integrated with the submission of provisional VAT declarations. This means that traders engaged in intra-Community transactions submit the Intrastat return at the same time as the provisional VAT return (where they are above the statistical threshold). Traders who fail to submit the Intrastat return or submit it late are subject to the same legal penalties as for VAT.

As stated by the National Statistical Office of Greece in its reply to the Court of Auditors questionnaire, each reference month in 1994 has been found to contain late Intrastat returns relating to months prior to the reference month and the value and size of these transactions has been calculated.

This problem has been identified by the relevant departments and it is thought that the gradual adjustments to and on-going monitoring of the system will improve the situation, since 1994 was only the second year in which the Intrastat system was applied. This is also noted by the Court of Auditors in paragraph 1.84 of its report, which refers to the improvements in Member States' compliance with the deadlines as an important step forward for evaluating the system.

## 2. FRAUD PREVENTION

### Agriculture

Paragraph 3.70

It is true that progress with setting up the olive cultivation register, in accordance with Regulation (EEC) No 2276/1979, has been severely held up by bureaucratic and other delays, but responsibility for this lies largely with the Commission. All the steps taken by Greece up until March 1996 as part of the liaison between the Greek authorities and the Commission (implementing pilot projects in 1991; the committee on drawing up technical specifications in 1995; international call for tenders for awarding the project contract in 1995 and 1996) were in vain, since the Commission changed the project guidelines to merge the olive cultivation and wine-growing registers and to specify the relevant areas jointly in conjunction with the integrated systems for the management and monitoring of Community aid. The delay of several months for which Greece was responsible was principally due to the time it took to obtain permission from the army authorities to fly over classified areas.

This shows that responsibility for the delay does not lie exclusively with the Greek authorities, who are well aware of the importance of this project in all the areas it covers and are committed to seeing it through in cooperation with the Commission.

Paragraphs 3.85 and 3.87

The Hellenic Cotton Board has already given detailed replies on this matter, which were sent to you with our letter referred to above (4051/31.1.97). However, we would like to reiterate the following:

(a) as regards Paragraph 3.85, the Community aid is paid to the ginning companies in full without any deduction whatsoever, since the contribution is deducted from the total product price, which is much higher than the minimum price set by the European Union. Furthermore, the contribution received by the Hellenic Cotton Board does not constitute State aid or preferential treatment for particular companies or industries;

(b) as regards Paragraph 3.87, the Court of Auditors acknowledges (towards the end of the paragraph) the measures taken by the Hellenic Cotton Board to improve its control procedures, which, as the Board itself informs us, involve conducting systematic checks and investigations, imposing fines and charges and taking additional measures in the control procedures. As regards the division of land parcels, although this practice was not in breach of the legislation in force, it has been reduced by the requirement that the crop declaration may be submitted only by the head of the farm as of 1995-1996.

3. CLEARANCE OF EAGGF ACCOUNTS

Paragraph 2.15

As stated by the Commission in its reply, the department responsible at the Ministry of Agriculture sent its reply by fax within the deadline fixed by the Regulation (15 June). The letter and the supporting documents were then sent by post five days later, by which time the deadline of 15 June had passed. The Commission was made aware of the reasons for the delay (bureaucracy and postal delays) and, as it stated in its reply, accepted the payment requests.

4. ELIGIBILITY

Paragraph 6.51

Community legislation does not lay down any specific obligations regarding the accounting system to be used by the implementing agencies for keeping accounting data on Community programmes. These bodies are, therefore, bound by the relevant provisions of national law (Presidential Decree 186/92 "Book-keeping and Accounting Data Code"), which specify a particular accounting system and book-keeping practice in accordance with the legal form of the implementing agency. These provisions stipulate what form the accounts must be kept in, exactly what they must contain and where they must be kept. This means that keeping accounts in any other way constitutes a breach of national legislation.

Furthermore, the accuracy of the data and compliance with the principle of additionality are checked by inspecting the account books and accounting data kept at the offices of the implementing agencies.

Paragraph 6.64

As stated by the Commission in its reply, public corporations employ mostly people connected with the corporation (usually a public limited liability company) on either fixed-term or open-ended private law contracts, which may be terminated at any time. The issue of whether or not these staff are liable to be laid off and, more generally, of compliance with the provisions of Article 2 of Regulation (EEC) No 4255/88 is a matter for detailed examination by the Commission, which is in any case responsible for approving the programmes.

5. INSPECTION

Checks on the transfer of Community appropriations and beneficiaries

Paragraph 4.65

The construction of the drain network has been completed in the industrial area where the two factories financed under Regulation (EEC) No 4042/89 were built (Vialko O.E. and Efst. Karagounis and Sons O.E.). Therefore, the problem referred to in this point no longer applies.

Paragraph 6.65

In accordance with the Constitution and Law No 2362/94, replacing Law No 321/69, public administration bodies are subject to administrative, judicial and parliamentary control. Administrative controls break down into regular, extraordinary, preventive and criminal investigations.

Public corporations are subject to regular internal auditing as specified in their rules of procedure, extraordinary auditing by the supervisory authority and external auditing by the National Audit Office.

Unlike public sector companies, those in the private sector are not subject to any system of auditing other than in respect of their tax obligations, which depend on their legal form, as laid down in national tax law.

This explains why auditing initially focused on the private sector.

However, as shown by the two tables attached, a certain number of public sector bodies were audited by the Ministry of Employment and the Special Audit Coordination Body (ESOE) between 1995 and 1997.

Paragraph 6.67

As regards the observations by the Court of Auditors concerning the eligibility criteria, we would point out that Commission Decision No 1035/10//23-4-97 concerning the eligibility data sheets was issued only recently and that this was after it came to light that there was a difference of opinion between the Commission's inspection departments and the European Court of Auditors.

As regards the protocol that was concluded by the Commission's Financial Controller and the Greek Ministry of Finance and its application to date, we have the following to report in conjunction with the various observations by the Court of Auditors:

Background

The audit protocol was signed by the Financial Controller and the Ministry of Finance on 3 April 1995.

The Special Audit Coordination Body (ESOE) was already operating in the year the protocol was signed and carried out four audits (see table below), despite having to solve the many problems relating to its composition, rules of procedure and laying down its special audit methodology. The ESOE carried out a further four audits in its second year of operation. The small number of audits planned and carried out was largely due to the fact that the audit programme for that year was drawn up in conjunction with the Commission under the partnership arrangements (see Ministry of Finance letter 2070201/2971/17.11.95 and DG XX letter XX(96)D-3128/29.5.96).

In its third year of operation (1997) the ESOE scheduled 13 audits, of which 7 have already been carried out (see table below).

The Court of Auditors was, therefore, not correct in stating that inspections carried out under the protocol are infrequent.

We have the following to point out concerning the Court's more specific observations:

Lack of criteria for selecting ESF beneficiaries for audit

The criteria used by the ESOE for selecting beneficiaries to be audited are the same as those applied by the Commission. The criteria include complaints or more general grounds for suspicion concerning irregularities in the management and implementation of programmes, emanating from UCLAF or any other source, how often each sector is audited and the degree of risk in each sector.

Lack of detailed audit programme

We have enclosed three tables showing the ESOE's audit tasks for 1995, 1996 and 1997 with the date of the inspections, the programme implemented, the bodies inspected and the structural fund from which the financing came.

Lack of up-to-date audit methodology

As stated in detail in the protocol, the methodology applied is the same as the one applied by the Commission, as set out in Commission documents XX.B.4/JJC, XX/111/93-GR and XX.B.5/TH, which are in any case referred to in the protocol.

Lack of procedures for following up audit reports

The follow-up procedures for ESOE audits are set out in detail in Law No 2187/94 and Presidential Decree 393/94 (submission of audit report to the ESOE; ESOE notification of the Ministry of Finance for measures to be taken where irregularities are discovered; issuing of an act of assessment by the Ministry of Finance for the recovery of sums paid in error etc.).

There are, however, other procedures, which vary according to the findings of the audit reports, and are laid down in more general national legal provisions. For example, where criminal activity is discovered, the audit report is sent to the Public Prosecutor who has the exclusive power to decide whether to initiate criminal proceedings and against whom.

Audit results not sent systematically to DG XX or the Court of Auditors

Under the protocol all the reports on audits carried out by the ESOE are systematically forwarded to the appropriate Commission department (DG XX). This can be seen from the references of the documents we sent to the Commission, reporting the findings of all the audits carried out in 1995 and 1996 (the results of the 1997 audits have not yet been forwarded):

- Letter 20020/2/15.2.96 - audit of EEDE
- Letter 20300/18/26.9.96 - audit of EIN and the municipality of Nikea
- Letter 20325/19/15.10.96 - audit of municipality of Pireas
- Letter 205595/1930/12.8.96 - audit of DEIA
- Letter 2078826/2862/25.11.96 - audit of OLP
- Letter 2078825/2861/25.11.96 - audit of the programme "reinstallation of livestock facilities".

We would point out that responsibility for notifying the Court of Auditors of the results of audits carried out under the protocol lies with the Commission and not the Member States.

Paragraph 6.89

Letter No 170114/11.4.96 from the Ministry of Employment, which we forwarded to you, with our letter referred to above, and to the European Court of Auditors via the Greek National Audit Office, clearly states that under the articles of association of "K. KOURKOUTA & SIA" "PETRA Office Greece", the legal successor to its assets, should it go into liquidation, is the Vocational Education and Training Organisation (OEEK). The articles of association also state that succession shall not take place until all the company's debts have been settled or paid. Therefore, the succession issue does not arise in respect of outstanding payments for the simple reason stated above that succession does not take place until all payments have been settled.

We would point out that all the abovementioned arrangements set out in the company's articles of association were known to the Commission; as you are aware, contracts for the implementation of the LEONARDO/PETRA programmes are concluded directly between the Commission and the implementing agencies and so it goes without saying that each of the contracting parties is familiar with the basic data concerning the other party.

The observation concerning legal succession and outstanding recoveries is not clear, since "K. KOURKOUTA & SIA" was never responsible for recoveries.

6. EVALUATION

Certification

Paragraph 6.63

Letter No 170793/6.11.95 from the Ministry of Employment, which we also forwarded to you, with our letter referred to above, and to the Court of Auditors, explains the background to the non-compliance with Regulation (EEC) No 1866/90 as well as the arrangements, decided on jointly with the Commission, for winding up the first CSF programmes.

Paragraph 6.65

In the light of the experience of the first CSF, the Ministry of Employment identified several shortcomings, which it set out to remedy by introducing an on-going system of vocational training at both programme planning and programme implementation level as well as a new system of certification.

The details of the new system of vocational training, certification, management, monitoring, evaluation and control are set out in letter No 170793 from the Ministry of Employment, which we forwarded to you, with our letter referred to above, and to the Court of Auditors.

**Paragraph 1.73**

Concerning paragraph 1.73, we would like to point out that under Art 6 of Council Regulation (EEC) 218/92, the VIES Regulation, Member States are required to maintain and make available to the competent administrations of the other Member States an electronic data base of traders registered for VAT. In Ireland this is done by transferring information from our national VAT file to the VIES gateway system where it is updated on a weekly basis to take account of the changes which have taken place in the national file during the previous 7 days.

In relation to the maintenance of the national VAT data base, there may be delays in this being updated in certain cases for reasons such as:

(a) a delay by the VAT registered trader in informing the Office of the Revenue Commissioners that he had ceased trading

(b) failure by a trader to notify the Office of the Revenue Commissioners that he had ceased trading and accordingly this not coming to official attention for some time after such cessation

(c) it being necessary for the Office of the Revenue Commissioners to check as regards outstanding liabilities prior to the cancellation of a VAT number

In cases such as those detailed above there would be consequential delay in the information being updated on to the VIES gateway system and being made available to the other Member States.

**Paragraph 4.66**

Paragraphs 4.66, 4.74 and 4.75 refer to the fisheries sector. Paragraph 4.66 concerns the grant aiding of a factory (building only), at Kilkieran, Co Galway, under the Community Support Framework (CSF) for Processing and Marketing of Fishery and Aquaculture Products, 1991-1993. The beneficiary was Saorcloch Teo, which is a wholly owned subsidiary of the semi-State intermediary agency, Udaras na Gaeltachta. Saorcloch Teo provides new customised buildings on lease to approved fish processing projects. However, the actual company to which the building was subsequently leased was forced to rationalise its business and pull out of the factory. The lease was surrendered by this company and a replacement fish processing project is actively being pursued for location in the Kilkieran factory.

**Paragraph 4.74 and 4.75**

Operational Programme 91/1 was the first of three under the Community Support Framework (CSF) for Processing and Marketing of Fishery and Aquaculture Products, 1991-1993.

Advances of EU aid for the Programme were to be made in accordance with Article 21 of Regulation (EEC) No 4253/88 which states that "a second advance..... shall be made after the responsible body has certified that at least half of the first advance has been used up..."

Following a request from DG XIV, the Department of the Marine wrote informing them that expenditure of EU aid had not reached 50% of the first advance. Following further discussion with DG XIV, the second advance was requested on the basis that total expenditure by final beneficiaries was more than 50% of the first advance of EU aid. The second advance was duly paid.

Reviewing the file at this stage, it would appear that in this particular case there was uncertainty in relation to whether the trigger figure for a second advance of aid was to be based on level of expenditure of EU aid or total expenditure. The "drawdown of advances" procedures are now well established and formalised between the Department of the Marine and the European Commission under the present Operational Programme.

**Paragraph 5.53**

Ireland's Industrial Development Agency does not focus primarily on the financial internal rate of return for evaluating industrial projects seeking grant aid. The internal rate of return is only one of several factors taken into account in project evaluation. Using a sophisticated economic model as part of an elaborate and rigorous project appraisal system, the benefits to the Irish economy of a project are measured against the grant costs of securing the project. Only projects which offer good value for money for a specific grant level are approved. Policy is to target and secure projects at the lowest level of grant possible, having taken all the relevant factors into account, including in particular international competition. Projects with high profit projections are not excluded for grant aid. It is established policy not to grant aid companies which do not have a strong track record and a good chance of success.

The foregoing factors were taken into account in assessing the level of grant aid appropriate for projects mentioned at paragraphs 5.53 and 5.54, all of which were 'mobile' and the subject of strong international competition.

# SUMMARY DOCUMENT ON ACTION TAKEN ON COMMENTS BY THE EUROPEAN COURT OF AUDITORS RELATING TO THE 1995 FINANCIAL YEAR - OBSERVATIONS AND PROVISIONS ADOPTED BY ITALY

## 1. OWN RESOURCES

### 1.1 Transitional VAT arrangements

**1.7** (Traditional own resources) Management of definitively irrecoverable debts. Under Article 17(2), Member States may disregard the obligation to make amounts available where for reasons of *force majeure* these amounts have not been collected or where it appears that recovery is impossible for reasons which cannot be attributed to them.

The Court of Auditors points out that, on examination of the files relating to amounts not made available, kept by the Commission, differences appear between the amounts in the quarterly statements relating to the B account or separate account (amounts established and not recovered or not covered by a guarantee) and the amounts in the half-yearly reports on cases of fraud exceeding ECU 10 000.

While Italy does not give rise to specific comments, it is noted that the amounts given in column 5 of the quarterly statements mentioned above, relating to administrative cancellations and discharges, include all the corrections in establishment (cancellations, revisions and cases where debts were not due), and it is not therefore possible to make a comparison with the figures shown in the half-yearly lists. In order to resolve this difficulty, following the amendments introduced by Council Regulation (Euratom, EC) No 1355/96 of 8 August 1996, the Customs Department of the Ministry of Finance issued instructions to customs offices that, from 1 January 1997, they should adopt the new quarterly statement relating to the separate account or the B account which includes the appropriate column for amounts which it is impossible to make available within the meaning of Article 17(2) of Regulation No 1552/89.

In such a way it will be possible to know immediately the situation as regards amounts which cannot be recovered and, in addition, the quarterly and half-yearly figures will be seen to tally.

## 2. FRAUD PREVENTION

### 2.1 Customs warehouses and controls

**1.39** (Customs warehouses) This refers to the inquiry into type D customs warehouses which the Court of Auditors conducted in some Member States, including Italy. It emerged, in particular, that there was a danger of late establishment of own resources as a result of anomalies detected in the keeping of the stock records. According to the results of the inquiries, these anomalies sprang from the heterogeneous instructions on the matter issued by the national authorities.

During an inspection visit to an Italian customs office by Community bodies, it emerged that the stock records were incomplete.

The customs office in question stated that the shortcomings in the abovementioned records were due to a mistake in the status of the warehouse which from 1.12.1994 to 1.4.1995 was wrongly considered to be a type C warehouse rather than a type

D warehouse. Following an extraordinary check (1.12.1994), the matter was settled by the issue of IM7 warehouse notes for the stocks which had been checked thereby creating new consignments of goods in storage which were subsequently removed on production of import notes.

**1.45** (Frequency and methods for checking stock records). This refers to the inspections carried out by the Member States in order to check, in particular, that own resources were established at the same time as goods were released for free circulation.

It was found that sample checks were conducted in Italy. The data on the entry and exit documents were compared.

Moreover, *ex post* checks were carried out on commercial documents and physical inventories, on the basis of which no specific reports were made. The customs offices in question confirmed that periodic inspections were carried out accompanied by the appropriate checks every four months by comparing the actual goods with inventories and documents kept by the offices.

No specific reports were made on the checks carried out. On the other hand, Community provisions do not expressly call for such reports.

Export refunds on products not included in Annex II (paragraph 3.96 of the report) were also examined. The purpose of these refunds is to make up the big difference between the much higher prices fixed by the Community for most of its agricultural products and the prices obtaining on the world market.

It was noted here, that the Member States, in the absence of Community directives on the matter, had adopted various methods for checking the legality and regularity of payments. It emerged that some Member States had interpreted production losses incorrectly and had thus based payment of refunds on goods which had not been exported.

With regard to the payment of export refunds on cereals, later exported in the form of whisky, it also emerged that regulations were lacking thereby having an impact on the collection of data by the Member States, necessary for the annual adjustment made by the Commission and for control procedures.

Following recent Community rules to supplement preceding ones relating to the abovementioned sectors, Italy, with a series of detailed instructions to the customs offices and operators in question, introduced the appropriate procedures in order to check the production losses mentioned above, to make a physical check on export products, to register manufacturing formulas beforehand (i.e. recipes) and lastly, to carry out an inspection in the factory after the goods had been exported.

## 5. MONITORING

### 5.1 Monitoring distribution of Community funds and beneficiaries

**6.15 - 6.30** (Low rate of utilization of reserves) The Ministry of Employment agrees with the Commission's comments and in addition stresses that Community decisions adopting several OP were taken in December 1994 thereby making it necessary to reschedule those annual payments. As a result, the considerable financial rescheduling

i.e. the carrying forward of unused amounts from 1994 to 1996-1999 has led, during the first two years of programming, to a low rate of utilization of expenditure with regard to both commitments and payments. In order to give greater consideration to the Court's comment, it would be advisable to know whether the percentages mentioned were included in the financial statements of the decisions adopting the CSFs or whether they also take subsequent amendments into account.

**6.32** (Delays in payments) In order to rationalize payments and following the agreements reached by Mr Treu, Minister and Mr Flynn, Member of the Commission on 30 June 1995, in accordance with Article 1(71) of Law No 549 of 28 December 1995 laying down Rationalization measures for public finances, from 1 January 1996 two thirds of additional receipts from the increase in the contribution provided for by Article 25 of Law No 845/78 are paid by the National Social Security Institute (INPS) directly into the rotation fund for the implementation of Community policies, set up under Article 5 of Law No 183/87, to be used for cofinancing European Social Fund measures in accordance with the procedures and time limits agreed between the Treasury and the Ministry of Employment. Under the finance law and the rules laid down in the implementing decree, contributions from the ESF and the Rotation Fund (provided for by Law No 845) are transferred to the Treasury. The Ministry of Employment and the Treasury have in turn defined the new methods for paying expenditure currently in progress for all programmes.

**6.35** (Definition of eligible expenditure) As predicted by the Court, there is an ever growing need for a definition of eligible expenditure. With regard to the work of SEM 2000 which has been referred to, it is pointed out, however, that, although the position of several delegations differs from that of the Commission on some points (costs of guarantees, concept of final beneficiary, definition of legally binding commitment), the Executive is not prepared to review its position.

The Ministry of Employment has repeated to the ESF Committee that the exclusion of the costs of guarantees from part-financing had a negative impact on the vocational training system in which area, as was noted, a significant number of non-profit making organizations operated. These organizations have great difficulty in finding financial cover for these costs.

**6.47** (Monitoring committees) The rigid link between Monitoring Committees set up under this programming exercise and the extended operational programmes is an anachronism and is contrary to the principle of partnership, since the new committees provide for a wider participation by social partners and local authorities. The Commission is right to challenge the legal basis of the Court's comment.

**6.56** (CIPE) The delays referred to in the adoption of CIPE decisions have been fully made up; in 1996 the programming decision for that year was adopted and the decisions for 1994 and 1995 were revised. In January 1997, CIPE decisions on the programming for the entire second three-year period were also adopted.

**6.79** (Conclusions) As has already been pointed out in the preceding paragraphs 6.15 and 6.30 it is simplistic to attribute underutilization during the first two years of the new programme exclusively to the inability of the Italian administration and of the Member States in general to manage affairs.

There are objective difficulties linked to the complexity and experimental nature of the new procedures.

Emphasis should also be put on the problems concerning the relationship between Community rules and national and regional rules on the State's accounts, transparency of commitments and spending of resources. It should be stressed again that, in administrative terms, the "cost" of transparency is particularly high (selection procedures for training measures, management of proceedings before administrative courts, information of beneficiary bodies), especially if a constant cooperative spirit is not shown by the Commission and the Court itself.

**7.20** (Bank guarantees) The Member State is responsible for the use of Community funds and so it requires the provision of an appropriate bank guarantee on behalf of the beneficiary of the contributions in order to insure against diversion of funds or their improper use.

**7.23** (Interest) The Commission has not provided information on the use of any interest generated following the granting of advances to the LAGs. It is obvious that the Member States will ensure that the amounts are used for eligible projects under this measure.

**5.2 Coherence and complementarity of financing**

**6.55** (The Central Office for the guidance and training of workers, UCOFPL) The Court wondered at the coherence between commitments entered into by the Ministry of Employment at Community level (the Ministry directs management of the ESF in Italy and is responsible for the many multiregional Operational Programmes) and the functions assigned to it by Italian law (Art.177 of the Italian Constitution and Law 845/78). The Ministry of Employment has already outlined its position on the matter (see Sectoral Letter No 66/95. Report on the inspection visit to Italy in connection the new ESF from 2.10.1995 to 6.10.1995. Rejoinders by the Ministry of Employment and Social Security are attached and given fully for practical purposes). It recalls that, within the meaning of Article 18 of Law No 845/78, it plays the role of "lead authority" with regard to the European Social Fund in Italy. In other words, the Ministry is not only responsible for several multiregional operational programmes included in the new Community programmes (1994-1999) but is called on to act as coordinator in all relationships with Community bodies responsible for the management of the European Social Fund in Italy as well as director of the national and local administrations involved in the policy of economic and social cohesion.

It follows that the Ministry and thus the Central Office for the Guidance and Training of Workers (UCOFPL) are responsible for all necessary administrative tasks such as the management of the European Social Fund and the coordination of the national laws authorizing part-financing of measures, purely technical tasks such as the identification of indicators for the evaluation of the individual measures and monitoring, as well as political functions such as the direction in relation to the guidance of training and protection of the principle of coparticipation required by Community regulations on the Structural Funds.

These tasks call for close attention in view of the special institutional framework within which the Ministry of Employment and Social Security operates. There is no need to recall the specific obstacles which hinder the efficient management of Community action

in the field of training, principally the difficult task of reconciling the role of the "lead authority" with the autonomy of the Regions with regard to the assessment of human resources.

The solution to the last problem should not be sought, as the European Court of Auditors does, in the conflict between the powers of the national authority and the regional authority. Two points should be borne in mind here:

(a) Community operational programmes are a form of assistance provided by the Community's economic and social cohesion policy in the way that the European Social Fund is an instrument for attaining the objectives laid down by that policy. The problem of powers relate to the definition of the policy's objectives and not necessarily to the management of the instruments to implement that policy. In this connection it is pointed out that the actions of the Ministry of Employment are carried out with the agreement of the regional authorities, as recently confirmed in the memorandum also signed by the social partners and by the regional coordination body at the end of the meeting in Gaeta on 14 and 15 February 1996. In that document it is stated that "multiregional initiatives are classified as policy measures designed to make full use of the resources made available by the European Social Fund in line with strategic priorities at national level".

(b) Given the scope of the economic and social policy it is not difficult to foresee "cascade" implications of the subsidiarity principle also in the relationships between the various levels of authority in one and the same State. On the basis of the principle of the expansive nature of action by the higher Authority (the Community in relation to the State, the State in relation to the Regions), local authorities must constantly align their activities on the activities of the central authority.

The problem is real in that the principle of subsidiarity allows for Community action to take place as the same time as local action provided that the first is subordinate to the second.

It is pointed out that subsidiarity which appears to be a typically legal concept (with regard of the relationship between the powers of various authorities), has in fact an economic and political basis.

Lastly it is noted that the problem of powers is a typically national one and does not affect the application of the social and economic cohesion policy in Italy.

SPECIFIC COMMENTS

**7.27** The delay in the implementation of the Leader Programme in Italy had the effect in many cases that the Region assessed the projects relating to some measures after the deadline for commitments set at 30.6.1995. In any case, commitments relating to those measures were adopted by the appropriate decisions of the Administrative Board, which being a LAG legal instrument, gives rise to an entitlement subject to the approval of the Region responsible for the project.

**7.28** In accordance with the technical and administrative procedures for implementing the Leader programme in Italy, the joint committees specially set up in the Regions are responsible for evaluating the projects presented by the LAG and delivering an opinion on compliance with the provisions and regional programmes in force.

The Molise Region, through the lack of LAG projects and internal problems, was slow in complying with these provisions.

The Ministry for Agricultural, Food and Forestry Resources made many representations to the LAG in order to have documents adequately prepared and to the Region in order to seek to resolve existing problems and to get the Joint Committee to issue the appropriate G approval form. These forms were finally issued last November.

**7.29** The Leader Programme presented by the Colli Esini LAG provides for the structural renovation and enhancement for agritourism purposes of some of the buildings attached to the S.Urbano Abbey in the *comune* of Apiro.

The project consists in creating an agritourist complex which will also serve as a services and documentation centre and an exhibition centre for displaying and marketing local products. If this project is carried out as planned it will operate independently of the other projects relating to the renovation of the Abbey financed from other funds. The Moligal LAG is in a similar position with regard to a project to be carried out on an agritourist farm in the *comune* of Sepino.

VULTURE ALTO BRADANO LAG

**7.30** The Leader programme presented by Vulture Alto Bradano is based on intangible measures consisting, in particular, of feasibility studies on future projects to be carried out not necessarily under the same programme and on technical assistance projects in the district. The programme such as it was planned, was approved by the EU Commission which saw in it the possibility of providing the local people with a high level of support for rural development, an objective set out in Communication No 91/C 73/14 to the Member States.

**7.32** Although the purchase of the LAG administrative seat was approved by the EU Commission as part of the programme, it is not mentioned in the expenses of the LAG.

**7.33, 7.34, 7.35** With regard to advance payments for services after 31.12.1996, deadline for eligibility of expenses under the Leader programme, during the single technical and administrative check on the Vulture Alto Bradano LAG at the end of 1994, the relevant Monitoring Committee consisting of ministerial and regional representatives did not find evidence supporting the Court of Auditors' comments. One year's payment of the rent for the current year had to be accounted for. The Ministry for Agricultural, Food and Forestry Resources will, however, improve transparency of the presentation of the expenses for which a Community contribution is granted.

**7.37** The Joint Committee of the Regional Administration evaluates projects. Tenders submitted by the LAG for consultancy activities were examined and accepted by the relevant Organization. In view of the comment by the Court of Auditors, the Ministry for Agricultural, Food and Forestry Resources will ask for further information from the Basilicata Region.

**7.38** The relevant Technical and Administrative Monitoring Committee carried out an on-the-spot investigation into the Vulture Alto Bradano LAG in November 1994. At that time, material was not available to determine whether the studies planned under the

programme had contributed concretely to rural development. On completion of the programme, the Ministry and the relevant assessor will be able to make this evaluation.

## 6. ASSESSMENT

### 6.1 Impact of the provision

**6.50** (Final beneficiary) As noted by the Commission, the definition of incurred expenditure is found in the general conditions attached to the decisions adopting CSFs and operational programmes. The problem is to identify accurately the final beneficiary required to account for that expenditure. Here, the Ministry of Employment recently informed the ESF Committee that in Italy, the vocational training system, by its very nature, provides for a huge number of small-scale projects; thus the final beneficiary should be deemed to be the last public body involved in allocating the resources.

### 6.2 Certification

**6.51** (Analytic accounting) In agreement with the Commission, the Ministry of Employment is also studying types of incentives to encourage vocational training bodies to adopt analytic accounting. A meeting is being planned between the central and regional Administrations involved in European Social Fund accounting. The theme will be how to promote that accounting system in the beneficiary bodies. Discussions will be based on the experience acquired in the Emilia Romagna Region.

**6.54** (Lombardy, Sicily) In view of the freezing of the resources for operational programmes during the preceding programming period - the subject of the Court's comment - the matter is now being examined (Sectoral letter No 66/95 from the Court notes in relation to the Lombardy region the "with regard to 1990 and 1991, in respect of which the Lombardy region presented a request for settlement of the balance, the certified expenditure does not match that entered in the public accounts of the region").

**Common organization of the market in rice**

The Court's comment on production aid does not appear relevant. It refers to the lack of criteria for eliminating differences between declared areas and actual areas planted and the absence of a land register to identify and check plots under rice.

It is worth pointing out that Italy has a land register whose geometric layout is fully reliable, as was also found by the technical departments of the EU Commission during the establishment of the integrated management and control system referred to in Regulation (EEC) No 508/92. By using that instrument, the Body responsible for management and control of the measure in question, was able to identify and check with the greatest certainty, that the area declared corresponded to the area under cultivation by making an objective comparison directly on the spot.

Subsequently the common organization of the market in rice was reformed and included in the management and control procedures, provided for in the integrated control system which has been applied for four years to arable crops (Regulation (EEC) No 1765/92). Results are more than satisfactory, as has been also admitted by the Commission in the reports on inspection visits.

The National Rice Board has pointed out that Italian operators have not benefited from the measure for exports to Réunion.

# THE NETHERLANDS

Follow-up to the annual report of the Court of Auditors for the 1995 financial year

As part of the third phase of the SEM 2000 initiative, it was agreed that the Commission would ask the Member States to set out the measures they had taken in response to the observations made by the Court of Auditors in its annual report so that the Commission could take them into account in its follow-up report for the discharge authority. In letter No XIX/D/00240 of 15 January 1997 Mr Mingasson asked the Netherlands to send the Commission a reply to the observations which the Court of Auditors made in connection with the Netherlands in its annual report for 1995. You will find this reply below. For your information, I attach a copy of the letter which the Dutch Finance Minister recently sent to the Dutch Parliament concerning the Dutch Government's comments on the Court of Auditors' report on the 1995 financial year. This is the third year running that the Second Chamber has asked the Government for a written reply.

Paragraph 1.73

The Court of Auditors notes that cancelled VAT identification numbers in countries such as the Netherlands may continue to be given as valid on the VIES network for some time after the actual date of their elimination. VAT identification numbers are no longer cancelled retrospectively in the Netherlands. The shortcoming noted can thus no longer occur in the Netherlands.

Paragraph 1.83

The Court of Auditors states that the reliability of Intrastat statistics is adversely affected by the different approaches adopted by the Member States when a trader fails to make a declaration. The Netherlands (like Germany and the United Kingdom) immediately estimates cases of non-compliance or late declaration and takes these data into consideration when publishing these statistics for the first time. Other Member States wait until later before making this correction or completely fail to do so. The different procedures employed in the various Member States are regularly discussed in the management committee set up by the Intrastat regulation. A subgroup of this committee is now examining national practices in individual Member States in greater detail. When its study is completed, this subgroup will submit a report to the committee. Incidentally, we do not have the impression that harmonization will be achieved in the near future.

Paragraph 6.67

Despite the protocols of agreement signed between the Member States and DG XX since 1994 on the financial control of the Structural Funds, the Court of Auditors considers that there are still a number of shortcomings in connection with the ESF. Its criticisms are mainly levelled at the way the protocols of agreement were applied in practice in 1995. As it did not sign protocols of agreement with DG XX until 2 February 1996, the Netherlands was subject that year only to the general rule (Article 23(1) of Regulation (EEC) No 2082/93) that the national control reports on Structural Fund operations must be "made available to the Commission" (i.e. there is no obligation to submit them). The protocols of agreement now state that the national departments responsible, in conjunction with DG XX, must every year draw up a plan of action and a programme of controls. In autumn 1996 the audit departments of the three Dutch ministries involved

discussed the 1997 cooperation measures with DG XX. Agreement was reached on such matters as the exchange of control findings between these audit departments and DG XX. It was also agreed that a follow-up meeting should be held in early 1997 to discuss how this cooperation was proceeding.

Paragraph 9.31(f)

The Court of Auditors notes that, when the Commission realized that a production would never be likely to get off the ground, it tried, to no avail, to recover the sum advanced to an independent producer in the Netherlands under the action plan to introduce advanced television services in Europe. According to the Court of Auditors, the Commission could have demanded a bank guarantee in the case at hand. In its reply, the Commission points out that the Dutch producer in question had indeed received an advance on 28 February 1994 for a project expiring on 30 April 1995. The Commission launched an inquiry in 1994 and issued a recovery order on 27 January 1995. After the Commission made a complaint against the producer involved, the Dutch Public Prosecutor's Department opened criminal proceedings against him at Zwolle District Court. The other Dutch bodies involved, apart from the Public Prosecutor of Zwolle District Court, are the Economic Investigation Service and the regional police of the region in which the producer is based.

However, one major delaying factor was that the Netherlands had to lean on the Commission to forward the documentation needed for the investigation. Another complication is that the producer has lodged a complaint against a third party for defamation.

# ANNUAL REPORT BY THE COURT OF AUDITORS ON 1995 BUDGET IMPLEMENTATION

**Response by the United Kingdom to the Court's observations.**

*The references are to paragraphs in the Court of Auditors 'annual report on Financial Year 1995 (Official Journal C340, Volume 39 dated 12 November 1996).*

## 1. OWN RESOURCES

### 1.1 The transitional system for VAT

Paragraphs 1.73

*The Court observes that in a number of Member States, including the UK, VAT identification numbers may continue to be given as valid on the VIES network for some time after the actual date of their elimination.*

As is clear elsewhere in the Court's report (for instance, para 1.86), the UK considers the VIES system as a useful tool in measures to protect VAT revenues and every reasonable step is taken to ensure that the data it carries is kept up to date. The UK policy is similar to that which the Court notes as being followed by others: traders are required to inform HM Customs and Excise within 30 days of the date they cease to trade. It is not unreasonable to allow a period of this length in which the affairs of the former business may be put in order. The aim is to delete the relevant VAT registration numbers from the database within two weeks of the trader's notification, which we also consider to be a reasonable target. This means that there will be an interval in which the database shows as active a number of registrations of businesses which have ceased trading, but this is unavoidable without disproportionate cost, including the costs of compliance on the businesses involved.

The main risk to the system is failure of traders to notify the authorities within the time limit after they have ceased trading. As soon as such traders have been identified, immediate action is taken to deregister the businesses.

The UK shares the view of other Member States reported by the Commission in its reply on this observation, that in practice there is not a significant problem justifying greater compliance efforts. However, the UK will continue to co-operate closely with the Commission and other Member States through the Standing Committee on Administrative Co-operation, and will be ready to review policies if appropriate in the light of results from the Commission's monitoring.

Paragraph 1.83

*The Court observes an adverse effect on the Intrastat system from Member States taking different approaches to the preparation of statistics (in cases where traders do not make the required monthly declarations on intra-Community deliveries).*

The UK shares the view of the Court that greater consistency in approach should be helpful. However the UK believes that the approach which it (together with some others) is reported is taking represents best practice in this area, which does not require an adjustment to UK policies.

**1.2 Export refunds**

Paragraph 3.108

*The Court observes weaknesses in the UK control system for refunds on cereals processed into whisky for export; and invites the Commission to review whether, in light of changing differentials between EC market prices and world market prices for cereals, an EU subsidy to whisky distillers is still appropriate.*

*This is also relevant to the EAGGF theme in SEM 2000 (see reference to para 3.107 below).*

The UK notes the Court's observation, but does not share the view that the existing control system carries an unacceptable risk of irregularities. The UK will be happy to review this position if evidence of practical problems comes to hand, but it appears that irregularities have not been identified in practice either by the Court or the Commission in their reviews of transactions in this system.

As to the rationale for continuation of the system to compensate for differences between EC market prices and world market prices as they affect the competitiveness of whisky produced in the Community for export to other markets, the UK entirely shares the view given by the Commission in its reply to the Court. That is, as long as Community agricultural policies may have the effect of sustaining differentials between Community prices for cereals and world prices, it is appropriate for there to be an adjustment mechanism which in the event of world market prices being the lower will set off what would otherwise be a competitive disadvantage for the Community's whisky exports.

The Commission is correct in its observation that continuation of this system is secu by the terms of the UK's accession to the Community.

## 1.3 Reimbursement

Paragraph 5.15

*The Court criticises the UK for failing to make reimbursements in time in respect of two recovery orders (relating to specific - 'non-quota' - regional development measures) for a total of 4 million ECU which were outstanding at 31 December 1995.*

*This is also relevant to the Regional sector theme in SEM 2000.*

There is no apparent basis for the Court's observations. The circumstances have been investigated and the two recovery orders in question have been identified. Both were issued in 1995. One, for 3.02 million ECU, was contested by the UK and withdrawn on being found to be incorrect. DGXVI agreed on 11 August 1995 that it should be withdrawn. The other, for 0.94 million ECU, was undated but specified a deadline for payment of 31 January 1996. It was paid on 19 January 1996.

We understand that the Court has subsequently agreed, on approach from the National Audit Office, that the recovery orders were in fact handled correctly.

## 2. FRAUD PREVENTION

There are no observations about the UK relevant to this theme of SEM 2000 Stage III.

## 3. CLEARANCE OF EAGGF ACCOUNTS

Paragraph 1.26

*The Court observes that in some Member States, including the UK, monthly or quarterly declarations on bills of discharge required under the inward processing procedure were submitted late, reflecting a failure to apply the Regulations on establishment and collection of Own Resources properly.*

*This observation is relevant also to the theme of Own Resources (above).*

The UK notes the Court's observation. Article 596 of Regulation 2454 93 requires that a bill of discharge shall be supplied within 30 days of the time limit for export but it does not indicate what action should be taken if the bill of discharge is late. The practice of the UK authorities is to allow a few days for possible administrative delays, but where a trader is late more than once they are warned that further problems will result in the imposition of a security for all suspended duties. Article 597 states that import duties on goods released for free circulation shall be paid at the latest on presentation of the bill of discharge. Under Article 551 the suspension system may be

granted for cases where there is firm evidence of an intention to export. Diversion to free circulation should not therefore be significant and the possible financial impositions should make cases of belated presentation of bills rare.

The UK considers that the amount of Own Resources from this regime is relatively small and that late collection and establishment by UK authorities is very occasional. The UK will, however, be happy to investigate particular cases which concern the Court or the Commission and if appropriate to review with them the overall circumstances.

Paragraph 1.27

*The Court observes that in two Member States including the UK declaration periods of up to one year had been authorised, when the Regulations required weekly or monthly declarations.*

*This observation is relevant also to the theme of Own Resources (above).*

The UK accepts that an error was made in authorising a 'globalisation' (declaration) of up to one year. Guidance by HM Customs and Excise to its officers has since been revised to ensure that Article 593 of Regulation 2454/93 is applied correctly. We believe that the trader granted an annual aggregation was an isolated case with no impact on Own Resources.

Paragraph 3.107

*The Court rehearses the history of clearances of accounts relevant to cereals used in whisky production (see reference to para 3.108, above).*

The UK accepts the account given by the Court of events relating to clearance of accounts audits in 1989 and 1990, subject to the comments in the Commission's reply. We understand the wish of the Court to ascertain and report upon the extent to which the references to this subject in its 1990 annual report have been acted upon. But we do not see this as particularly relevant to current operations under the new Regulation.

## 4. ELIGIBILITY

The UK is referred to in paragraph 6.122 as a litigant in the Court of Justice challenging the legality of expenditure under the Poverty programme. We note that since this report was published the Council has intervened in the UK's support in this case, on the sole grounds of the lack of a legal basis.

## 5. MONITORING

### 5.1 Monitoring of the flow of Community funds and recipients

Paragraphs 6.41 and 6.42

*The Court observes that the UK operational programmes under Objectives 3 and 4 of the European Social Fund (ESF) were modified, and new commitments to various projects entered into, after the deadline for closure of the programmes.*

The UK shares the Court's general view of the importance of respecting budget annuality. It was always the UK's intention to finance the projects in question from the allocation for the 1990-93 programming period. The opportunity to include new projects arose when in 1993 it became clear that the UKL (£ sterling) values of receipts would exceed those envisaged when our plans were originally approved by the Commission, as a result of £ depreciation against the ecu in late 1992. The UK believed that it had complied with proper procedures allowing the extension of the programme beyond its original end-date. The decision to extend was taken at a sub-committee of the Monitoring Committee in November 1993 where a Commission representative was in attendance on whose advice the UK was acting. The UK was surprised by the subsequent decision of the Commission not to extend the closure date beyond the end of 1993.

By the time that the Commission decided, in 1995, to allow extension of the programme the allocations for 1993 had been decommitted, requiring use of the allocations for the 1995-99 appropriations if the projects in question were to be assisted.

The UK notes the Commission's reply, and shares the view set out there that in this instance the decision to allow the programmes to reopen was justified to avoid penalising the beneficiaries of the ESF for reasons beyond their control. The UK does not dissent from the Court's view that, with hindsight, the episode could have been better managed; but it disagrees that it would have been a better outcome for the projects in question to be denied assistance. The Court is correct in its observation that, because the funding for these projects will be from the 1995-99 appropriations for the UK. the issue is one of annuality rather than the total of appropriations over time.

### 5.2 Coherence and complementarity of financing

Paragraph 6.99

*The Court observes that in a number of Member States, including the UK. grants given to students under the Erasmus chapter of the Socrates programme are at much lower*

*levels than the maxima permissible. The Court suggests that where the Community funding is a low proportion of total financing requirements its effectiveness is questionable because the projects are likely to have proceeded without the Community support.*

The UK notes the Court's observation. The UK agrees that where the Community aid is very much at the margins of total financing costs, it is right to question value for money on the grounds that the projects might have proceeded without Community support. However, in this specific case the UK would not agree that the availability of financial grants in the range of 1,200 ecu to 1,800 ecu per student per year is unrelated to the levels of student participation: it is seen by the UK as a valuable feature of the programme.

## 6. EVALUATION

### 6.1 Certification

Paragraph 6.51

*The Court observes deficiencies in accounting procedures relevant to management of the ESF in a number of Member States, including the UK.*

The UK notes the Court's views, but we do not share their conclusion. The Court's concern relates to the way in which accounting for total ESF receipts relates to the records maintained by local Training and Enterprise Councils which undertake eligible projects. The Commission's reply notes that where problems arise assessing the base of projects qualifying for assistance they generally concern large training organisations in which the ESF co-finances only a relatively small proportion of the measures underway. In these cases the Commission "has encouraged the creation of an analytical accounts system".

The UK is concerned to ensure that the accounting systems which it operates in this area meet the Commission's requirements. When final claims for 1994 were submitted in June 1995, the Commission identified irregularities in the methodology for converting amounts denominated in £ to ecu equivalents, and the management system was revised accordingly. Transitional arrangements were agreed with the Commission for 1994 and 1995; and a visit by the Commission in early 1996 to inspect the current system led to confirmation that it met the requirements of the regulations. We are not aware of the Commission changing this view in the light of the Court's observations but we should be happy to keep the subject under review. However, since the newly installed computer system was designed to meet the Commission's requirements, and has succeeded in doing so, we should be unhappy about a sudden change in arrangements which the system could not handle. There is, in fact, a clearly

documented audit trail through Training and Enterprise Councils to training providers and trainees.

Additional information

*The following comments relate to references in the Court of Auditors' reports on which the UK was not specifically invited to respond.*

Para 3.92

*The Court observes a large increase in the area of the UK on which fibre flax is cultivated in the context of observations about the poor economic rationale for subsidisation of fibre flax production. In its reply the Commission suspects that this represents a premium (subsidy) 'hunt' and that the yield per hectare in the UK is 'very much lower' than in traditional flax cultivation zones.*

The UK notes the Court's observations and the Commission's reply. The Court is right to criticise the regime. On a point of fact, aid rates were not increased in 1993: the separate rates for fibre and seed were combined at that time. But the rate is certainly too high, and the obvious answer is a phased reduction in the level of subsidy and a tightening of the rules on eligibility. It is not surprising that UK growers are responding to an increasing demand for the fibre from an expanding range of industrial outlets, given the subsidy on offer.

The Court of Auditors special report in support of the Statement of Assurance on the 1995 accounts: paras 3.96 to 9.99

*In its special report in support of the DAS on the general budget for 1995 the Court makes a number of observations about payments by the UK of sugar levies, which might be read as a criticism of UK practices.*

The UK does not accept any implication that the practices which it has followed in payment of sugar levies were illegal or irregular. The UK notes that para 3.99 appears to confirm that no issues of legality or irregularity were raised, and is therefore surprised to find the matter raised in the context of the DAS audit. The Commission's reply confirms that the UK was acting in accordance with a permissible interpretation of the extant Regulation. Since the introduction of an amendment to the Regulation in July 1996 UK practices have followed the amended Regulation.

# PORTUGAL

## OWN RESOURCES

*Point 1.73*

The national authorities noted the matter raised and are looking at ways to minimise the impact of the problem, to ensure, as far as possible, that the cancelled VAT numbers do not appear in the VIES system as valid numbers for a period after the date on which they were cancelled;

*Point 1.83*

This is a very complex problem which has vexed the national authorities. Ways in which the existing statistical information can be perfected are under examination.

## FRAUD PREVENTION

*Point 3.70*

The situation concerning the olive cultivation register is as follows:

At the beginning of August 1997, approval was granted by the government to the proposal for specifications for an international invitation to tender for various tasks to be carried out by firms specialised in cartography.

Now that the invitation to tender has been published, the tenders opened and the evaluation of the candidates is almost complete, the final decision should be made before the end of the year.

INGA (National institute for agricultural intervention and guarantee) is also carrying out a statistical operation to ensure the correct implementation of the register, in parallel with the operation initiated by the Commission for five Member States, including Portugal, to estimate the number of olive trees.

In view of the complexity of the immense tasks to be undertaken, and the intricacy of the administrative process, it is expected that the register will be implemented in the first half of 1999.

**Evaluation of the effects of the measure**

***Point 4.27***

We are in agreement with the answer given by the Commission

However, it is important to point out that until the system of checks is fully implemented - various levels of checks and entities responsible for checks - it is obvious that the information on checks carried out will not be immediately available, especially since the bodies participating in the national system of checks are not linked to a computer network which would allow instantaneous updating of information.

However, all the information which the European Commission requested from Portugal was provided on time by the Inspectorate-General for Finance, as coordinator of Community checks, in accordance with Decree-Law No 99/94 of 19 April 1994.

***Point 5.55***

In a spirit of using public funds at the disposal of Member States as rationally as possible, Portugal decided to use the funds in an economically productive way.

Therefore, although the criteria used for approving projects were based on either a positive contribution to the balance of payments or sectoral importance (knock-on effect/demonstration effect) and regional relevance, the projects also had to be economically viable, even without financial backing from the Community.

The primary aim was to provide an incentive for projects which would probably be self-sustaining. Otherwise, the use of public funds would be questionable, because a project which did not have a good prospect of profitability might quickly cease to be viable, were public funding to be momentarily unavailable, calling into question the effectiveness and efficiency of Community aid to the Member State.

Consider also that if low or negative rates of profitability (*Taxas Internas de Rentibilidade - TIR)* had been given preference, there would have been a high risk that they would have completely ceased to be viable if public funds were unavailable at a time of high interest rates. So, besides a clear waste of material and financial resources - and it should be remembered that there would be private investment involved as well - there would be the risk that such projects would produce a highly negative image of the effectiveness of public funding.

Add to that the fact that the intention was to provide incentive for structural change to the fabric of Portuguese production, which was in a very fragile state in the face of the globalisation of the economy, and it is clear that that the use of the rate of profitability (TIR) as one of the criteria for selecting projects to receive support was the only technically viable solution to achieve that objective.

***Point 6.51***

The Portuguese authorities have nothing to add to the European Commission's reply.

**MONITORING**

***Point 6.59***

For CSF I, the Department for ESF matters carried out checks on ESF beneficiaries as the IGF (*Inspecção Geral de Finanças* - Inspectorate General for Finance) had guaranteed that inspections would be carried out on the major beneficiaries of the ESF, and on the most significant ESF operations (Operational Programmes 1, 4, 10, PRODEP, CIENCIA); a list of checks carried out at that time was sent to the Community authorities.

The high percentage of irregularities found (reduction of the request for payment of the amount outstanding presented by the promoters) does not indicate that the number of checks was insufficient, but that the check carried out on the documents requesting final payment was effective.

Indeed, the facts uncovered at that time were confirmed by an on-the-spot audit which showed a high level of ineligible expenditure.

The number of audits does not seem as inadequate as the Court of Auditors suggests, when it is taken into account that between mid-1992 and 1995, 1600 audits were carried out. This immense volume of work took up all the human and financial resources available for auditing.

The work was so intensive that it led to a delay in the implementation and analysis of audits for CSF I until the end of 1997.

Furthermore, the DAFSE also sponsored audits for training initiatives which were under consideration for ESF grants under the "old fund" (1986/1989), where there were strong indications of disregard for the eligibility rules, a decision which turned out to be the right one, as not only did it uncover many cases of irregularities in obtaining ESF grants, with subsequent criminal proceedings being brought by the Public Prosecutor's office, but it also had the effect of acting as a warning for training organisations and final beneficiaries, the repercussions of which are now visible in the CSF I and II cases being audited .

However, with regard to the methodology employed in choosing audit samples, it was the DAFSE's intention not to make a random selection, as the Court of Auditors seems to recommend.

Indeed, on the basis of experience acquired in relation to organisations which received support from the "old fund", it was decided, for CSF I, to select organisations using risk analysis. It is clear that sampling on the basis of risk analysis inevitably leads to biased results. However, this was the object of the exercise as - this way - checks could be targeted at cases where there was the greatest doubt about the reliability of accounts.

We feel, therefore, that the detection of a large number of irregularities merely justifies our action.

Moreover, the European Community has itself pointed out, with regard to the rules and guidelines for control laid down for EAGGF-Guarantee, that this is recognised as the European Fund which has developed the most methodologies and invested most in checks on final beneficiaries (see, for example, Article 2 of Regulation (EEC)

No 4045/89, as amended by Regulation (EEC) No 30/94, and working document No VI/6877/97 - "Guide to ex post checks"

For CSF II, a new national system of checks was introduced which allows ESF support tranches to be more effectively monitored.

***Point 6.61***

In December 1996, a new legal framework for the ESF was defined in DR 15/96 of 23 November, Ordinance 745-A/96 of 16 December and DN 53-A/96 of 17 December. Among the new provisions were some relating to training organisations and beneficiaries which provided for:

- accreditation of leading organisations (Article 14 of DR 15/96, in accordance with the provisions of Ordinance 782/97 of 29 August);

- specific requirements which both parties must fulfil (Article 16 of DR 15/96), namely prohibiting organisations convicted in matters relating to the ESF from having access to public finance and requiring a bank guarantee from organisations which have indictments or are in the process of court proceedings for accreditation and limitation of subcontracting;

- limiting recourse to subcontracting for training organisations (Article 7 of Ordinance 745-A/96).

The result of publishing this legislation was not only to minimise the frequency of situations such as that described at 6.6., but also the likelihood of inflated costs and multiple invoices, and to guarantee that training initiatives with a minimum level of quality are carried out by duly accredited training organisations.

The national authorities therefore took the steps required in the light of the Court of Auditor's report.

***Point 6.67***

In the framework of the National System of Accounts, harmonised audit methods were studied and developed, as well as an information control system, to allow information

and risk analysis data relating to an audit to be collected as a basis for making a decision on the priority action areas and the selection of beneficiaries to be inspected.

In this connection, the Inspectorate General for Finance signed a protocol with the European Commission on 17 June 1996, in relation to the Structural Funds and Instruments, which was later extended to the Cohesion Fund.

Under this Protocol, the IGF systematically sent relevant audit reports to the European Commission.

Similarly, the methodologies on which national audits were based were also sent to the European Commission, together with the criteria for identifying underlying risks for programmes and the beneficiaries to be checked.

ISSN 0254-1475

COM(97) 571 final

# DOCUMENTS

EN 01 17

Catalogue number : CB-CO-97-590-EN-C

ISBN 92-78-26879-8

Office for Official Publications of the European Communities

L-2985 Luxembourg