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(Information)

COURT OF AUDITORS

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on

the import programmes carried out under the sixth EDF, together with the Commission's replies

(94/C 97/01)

(Observations pursuant to Article 188c(4), second subparagraph, of the EC Treaty)

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1. INTRODUCTION

1.1. One of the innovations introduced by the fourth Lomé Convention (seventh EDF) was the inclusion, among the instruments of ACP-EEC cooperation, of machinery for structural adjustment support (1) consisting in particular of import programmes and the distribution of the counterpart funds generated by the various Community aid instruments.

1.2. In actual fact, similar operations had already been carried out on an ad hoc basis within the context of the previous ACP-EEC conventions under the fifth EDF (2), and, subsequently, by means of extensive utilization of the programmable resources of the sixth EDF and additional funds released on behalf of the Special Community Programme to assist certain poor and heavily indebted countries of sub-Saharan Africa (3). Given the fact that this was a new experience for the Communities, the Court of Auditors has carried out both on-the-spot and documentary audits of various import programmes that were implemented between 1987 and 1992 (Annex 1) in order to draw up a list of the main issues raised by this form of EDF intervention from the point of view of financial management.

2. GENERAL PRESENTATION

The legal background to the import programmes of the sixth EDF

Sectoral import programmes

2.1. By introducing the sectoral import programmes, the signatories of the third Lomé Convention aimed to respond to the pressing demands of numerous ACP States for the EDF to improve the overall speed of its mobilization of aid and do more than in the past to attenuate the currency shortage from which most of the ACP States were suffering.

2.2. It was for this reason that Article 188.1 of the Convention authorized the financing of 'sectoral development and import programmes, the purpose of which is to contribute to the optimum functioning of the productive sectors of the economy and to help meet basic human needs'. Only States that had already initiated measures to deal with those of their economic problems that were structural in origin were to be eligible for this type of aid; the aim of the aid in question was 'to do away progressively with the needs it fulfils'.

2.3. In practice, the sixth EDF import programmes usually went hand-in-hand with the economic recovery programmes of the ACP beneficiary States themselves, which were sponsored by the International Monetary Fund (IMF) and the World Bank (4). As such, the EDF programmes are not structural adjustment programmes in the proper sense of the term, but rather short-term measures to accompany reforms, the aim of which is to make up for the chronic lack of the indispensable resources that are needed for domestic production within ACP States. It is for this reason that EDF aid constitutes, in the first analysis, support for the balances of payments of the ACP States. Unlike the aid granted in the form of loans by the IMF and World Bank for similar measures, EDF aid very largely takes the form of donations.

2.4. EDF aid is given to the ACP States themselves, and not to importers, who, whether they be private undertakings or government bodies, are, in principle, required to give the State an amount in the local currency corresponding to the prices of the goods imported. The sums that are collected in this way are known as 'counterpart funds' and, in the absence of specific rules, these funds are governed by the provisions of Article 197.10 of the third Lomé Convention and must therefore be used 'for development purposes'. Counterpart funds generated in this way in local currencies are thus an extension of the aid supplied in foreign currencies (5).

2.5. If these short-term aid measures are to produce optimum results, they need to be implemented quickly so as to create a kind of 'critical mass' that will give rise to a chain reaction of economic stimulation. Where there are delays in the implementation of the aid, its effects are watered down and the counterpart funds in local currencies

(1) Fourth Lomé Convention, Articles 243 to 250.

(2) With regard to maintenance assistance, on 3 December 1982 the Council had authorized in particular the granting of aid in the form of the supply or financing of inputs into the system of production (raw materials, spare parts, fertilizer, insecticide and health and education, excluding budgetary aid). The aim was to deal with serious situations, especially in low-income countries which were experiencing an extraordinary and growing lack of foreign currency or local resources such as to pose a threat to the basic functioning of the economy. Furthermore, it was specified that where the serious situation in question was of a structural nature, aid was to be linked to measures aiming to solve the underlying problems so that the need for aid would disappear after a certain period of time. Any counterpart funds were to be used for the goals of the projects or programmes, with the agreement of the Community (Annex 1 of document COM (87) 418 Final of 11.9.1987, concerning the implementation of the SDP).

(3) Conclusions of the Council of 14 December 1987, OJ C 348, 23.12.1987.

(4) The International Bank for Reconstruction and Development (IBRD).

(5) See the Council Resolution of 31 May, paragraph 7.

lose purchasing power as a result of the high inflation rates found in most of the ACP countries [1].

The special programme for heavily indebted countries

2.6. On the occasion of the Venice summit in June 1987, the Community adopted the principle of a special fast disbursement programme for the poorest and most heavily indebted countries of sub-Saharan Africa on condition that its OECD [2] partners undertook to carry out similar operations. On 14 December 1987, after the World Bank had adopted a Special Aid Programme (SAP) with the aim of encouraging suppliers of funds to grant the poor indebted countries of sub-Saharan Africa quick-disbursement funds (over three years), the Council formally adopted the special programme put forward by the Commission. The Decision in question laid down a figure of 100 Mio ECU, an implementation schedule (1988 — 1989), the type of measures to be financed and the eligibility criteria for recipients (Annex 2). This was a programme with immediate objectives, which were limited in time, and it was designed to loosen the stranglehold of immobility in which the shortage of hard currency was keeping the imports of many ACP countries.

2.7. The overall package of 100 Mio ECU consisted of:

(a) 40 Mio ECU in amounts outstanding from previous Conventions;

(b) 60 million ECU of interest payments and capital repayments (collected or due in 1988 and 1989) from special loans and risk capital granted in the past by the Community and entered in the accounts opened by the Member States at the EIB.

Within the limits of the additional appropriations made available by the Member States (i. e. 60 Mio ECU), the option existed of introducing general, rather than sectoral, import programmes [3].

(1) The situation is different for the countries of the franc (CFA Franc) area. However, these countries have their own difficulties, deriving from their shrinking money supplies.

(2) Organization for Economic Cooperation and Development.

(3) General programmes, like those of the World Bank, are based on a list of non-eligible goods (negative list). Article 188 of the third Lomé Convention only authorizes sectoral programmes, reflecting the sectors on which the indicative programmes concentrate.

2.8. Operations under the special programme, like those under the sectoral programmes, were to be extended by means of counterpart funds generated under similar conditions. For the sake of simplicity, these funds were usually added to those of other import programmes, which allowed them to be managed together.

The main characteristics of the import programmes

The Council's general objectives

2.9. Since the entry into force of the third Lomé Convention, the Community has tried to define its position with regard to aid in support of structural adjustment. This was the case when the special programme was being discussed in 1987 and then during the deliberations that led to the Council Resolution of 31 May 1988, which, broadly speaking, can be summarized as follows:

(a) the Community intends to support pragmatic reforms that are in accordance with the policies of the ACP States, whilst taking into account the constraints affecting those States, and at a speed that is compatible with their capacities;

(b) the financial instruments must be used as effectively as possible, bearing in mind that fast-disbursement measures are complementary to longer-term development operations [4];

(c) where the Community is supporting sectoral policies, priority must be given to the objective of guaranteeing food supplies;

(d) the Community will pay particular attention to the social aspect of adjustment, to the socio-cultural concerns of the ACP countries and to environmental protection requirements;

(e) the Community will endeavour to coordinate its activities more systematically, not only with those of the individual Member States, but also with the International Monetary Fund and the World Bank.

(4) The fast-disbursement instruments are, essentially, the import programmes, Stabex and food aid.

The form and content of the programmes

2.10. EDF import programmes can take two forms:

(a) 'materials' programmes (Annex 3), aimed at supplying significant quantities of a limited number of foodstuffs, items of equipment or basic products;

(b) 'currency' programmes (Annex 4), in which financial resources are remitted to a European bank account held by the ACP country's central bank (1) to cover the cost of import licences issued to ACP importers. The EDF's 'currency' programmes, which are generally sectoral, involve a large number of operations, each of limited dimensions (2).

Criteria and procedure for choosing programmes

2.11. As 'materials' programmes allow easy supervision of imports, they are made use of in difficult cases, where the ACP State's exchange rate policy is rather unrealistic or where the system of allocating foreign currency to importers is somewhat authoritarian. 'Currency' programmes, on the other hand, are usually reserved for countries whose adjustment programmes are at a more advanced stage and which have already noticeably liberalized their foreign exchange regulations.

2.12. Annex 5 is a diagram of the programme selection process. Where priority needs to be given to rapidity of disbursement (see 1.6 above), preference is usually given to 'materials' programmes or general import programmes. This makes it possible to avoid the bottlenecks characterizing sectoral 'currency' programmes and stemming from the limited absorptive capacities of an already limited number of solvent importers.

Implementation procedures

2.13. Whatever the type of programme and its beneficiaries, EDF import programmes are implemented according to similar guidelines, but their application retains a certain degree of flexibility in order to fit in with local constraints. In this context, it should be noted that:

(a) the EDF's implementation procedures for financial cooperation must be followed, in particular with regard to the eligibility of operations, competition and the rules of origin of the goods;

(b) the programmes are addressed to all firms that satisfy the rules of the recipient country for the sector concerned: for this reason, public, semi-public and private companies all have, in principle, equal opportunities for access to EDF funds;

(c) import programmes very often need a significant amount of technical assistance in the following fields:

 (i) setting up the programme's operational framework;

 (ii) guaranteeing an efficient and continuous application of the rules and implementation procedures;

 (iii) the administrative supervision of import operations in liaison with the local customs and finance authorities;

 (iv) supervising the creation and utilization of the counterpart funds.

(d) in addition to the provisions contained in the financing agreements, the implementation of import programmes usually requires specific agreements to be signed with the authorities that are directly involved, namely the central bank, central ministerial departments or the bodies in receipt of the products; the aim of these agreements is to specify the role of each of the parties before the operations get underway and guarantee that the imports are carried out quickly and that the counterpart funds are used as they should be;

(e) finally, in a large majority of cases, the financing agreements provide for the programmes to undergo independent evaluation during their implementation and, above all, upon termination.

2.14. Although the texts governing the EDF import programmes recommend coordination with the International Monetary Fund and the World Bank, they do not make the granting of aid conditional upon the prior existence of a structural adjustment programme as such. Thus, the Community was able to initiate import

(1) Except for countries in the franc (CFA Franc) area.

(2) The general import programmes implemented in the framework of the special debt programme (60 Mio ECU) are actually 'currency' programmes covering various sectors.

programmes in favour of countries which had not signed agreements with the IMF or the World Bank but had nevertheless made serious attempts at reforming their economies as a whole, or particular sectors thereof. EDF aid is granted in exchange for the reforms that the ACP State commits itself to undertaking or taking further. Consequently, all the financing agreements include more or less detailed lists of all the measures whose implementation in some way conditions the mobilization of EDF funds. In this connection, the Commission holds that, although there is no direct link between the amount of aid and the levels of the reforms requested, it is clear that a certain correlation does exist and that it would be pointless to claim to carry out reforms without achieving a 'critical mass' of aid (1). In each of the programmes, it is the Commission Delegation's responsibility to assess, on the spot, whether the ACP State is actually carrying out the intended reforms and then make the following tranches of the import programmes available on a pro rata basis, in line with the progress achieved.

The joint management of counterpart funds

2.15. The third Lomé Convention practically ignored the phenomenon of counterpart funds generated by non-food aid operations (2). Similarly, neither the internal agreement on the financing and management of Community aid (3) nor the financial regulation applicable to the sixth European Development Fund (4) deals with counterpart funds, so that a legal vacuum has remained unfilled in respect of an important aspect of Community development aid.

2.16. The financing agreements for the import programmes tried to close this gap by providing for guidelines for the creation and utilization of counterpart funds in the majority of the countries. These agreements are thus often accompanied by additional agreements (see 2.13(d) above). The fact that there is no legal basis that is applicable to all ACP countries has enabled each of them to negotiate its own rules on counterpart funds, producing management systems that differ greatly from one country to another, thus complicating the Commission's central departments' task of supervising the system as a whole. In fact, the instructions sent out to the Delegations in the form of memoranda have gone no further than the most basic principles, by recommending a flexible approach in the context of a common support policy (5) targeted at certain budgetary items or specific policies of the State in question. As for the practical procedures that were to be adopted, these memoranda dealt with them only very briefly, limiting themselves to pointing out the need:

(a) for a form of monitoring comparable with that carried out during the implementation of a project, and

(b) for the counterpart funds to pass, in the normal way, through a double signature (Commission Delegate/national authorizing officer) account (6).

Subsequently, more precise instructions were issued with effect from July 1990. These new instructions are examined in paragraphs 5.16 — 5.24 of this report.

3. THE SITUATION OF THE IMPORT PROGRAMMES

Overall situation

Sixth EDF resources allocated to import programmes

3.1. On 31 December the total resources of the sixth EDF amounted to 8 006,6 Mio ECU (7). On this same date appropriations mobilized for import programmes amounted to 845,6 Mio ECU or 10,6 % (8) of the total funds (9).

(1) Memorandum of 14 February 1989 on import programmes (document No 4670 (A)(a)(6).
(2) Article 226 of the fourth Lomé Convention filled this gap for the seventh EDF.
(3) Agreement No 86/126/EEC of 19 February 1986, OJ L 86, 31 March 1986.
(4) Council Regulation No 86/548/EEC of 11 November 1986, OJ L 325, 20 November 1986.
(5) Paragraph 7 of memorandum No 4670 of 14.2.1989 on import programmes.
(6) Paragraph 28 of memorandum No 4670 on import programmes of 14.2.1989.
(7) The initial funding, as modified by transfers from or to other EDFs and by various sources of revenue.
(8) Not taking into account import programmes financed with the funds of the fifth EDF.
(9) The funds devoted to import programmes represent 22 % of the overall programmable budget of the sixth EDF (see Annex 6).

3.2. In the central accounts of the sixth EDF, the import programmes themselves were divided into three groups:

(a) 100 Mio ECU (of which an amount of 82,3 Mio ECU was committed) set aside for countries which were eligible for the special programme and could benefit from sectoral or general import programmes (1) (accounts code No 1010250);

(b) 207 Mio ECU (of which an amount of 194,1 Mio ECU was committed) taken from Lomé III's reserves of programmable aid (accounts code No 1010251), which were also set aside for countries that were eligible for the special programme;

(c) an unspecified amount (of which the sum of 569,2 Mio ECU was committed) included in the amount for subsidies and loans in the context of the indicative programmes and concerning all the ACP countries, including those eligible for the special programme.

Even though this collection of measures is described by the Commission (2) as an 'instrument', it does not appear separately in the EDF's central accounts, which makes the information available to the discharge authorities less than transparent (3).

3.3. On 31 December 1991, the Commission had not backed up its financial statements with detailed breakdowns including all the counterpart funds that had actually been paid out or were yet to be generated pursuant to the import programmes financed by the sixth EDF. Nor had it stated to what extent and for what purposes all the funds concerned had actually been used.

3.4. Thus, on 22 June 1992 (4), the accounts published by the EDF did not constitute an adequate source of information for operations that nevertheless represented 10 % of total funds.

3.5. Between 1987 and 1991, the Commission signed, in the context of the sixth EDF, 63 financing agreements with 39 ACP States, either completely or partly concerning import programmes, for a total of 842,57 Mio ECU (5). In turn, each of these financing agreements concerned one or more 'accounting projects' and certain import programmes that were simply parts of wider programmes (6), so that the EDF's accounts do not make it possible to compile a direct inventory of import programmes (Annex 6). With this reservation, estimated commitments for the five years concerned are as follows:

Year	Commitments Mio ECU	Percentage of the total
1987	168,9	18,6 %
1988	299,0	32,9 %
1989	210,–	23,1 %
1990	149,6	16,5 %
1991	45,9	5,1 %
	873,4	96,2 %
Commitments previous to 1987 (Sudan)	35,–	3,8 %
Total	908,4	100 %

Programme types

3.6. The report submitted on 31 December 1990 pursuant to Article 193.7 of the third Lomé Convention shows that four general import programmes had been concluded (7). An examination of the financing agreements, however, shows that 18 programmes concerning ten countries were formulated as general programmes and that these involved total commitments of 98,85 ECU (Annex 4). Because of their contents, certain 'sectoral' programmes should be considered to be virtually general programmes.

3.7. In most cases, because of an ill-adapted legal framework (Article 188.1 of the third Lomé Convention), the Commission was obliged to resort to presentational devices in order to be able to follow the Council's recommendations and coordinate its interventions with those of other donors of aid to countries in the process of adjustment. However, given that it was a question of the implementation of the Convention and that its fundamental objectives were not affected, it would have been preferable for the matter to have been referred to the ACP-EEC Council pursuant to the provisions of Article 23 (a),

(1) The latter were themselves limited to 60 Mio ECU (see 2.6 above).

(2) Commission Communication: Implementation of a special Community programme in favour of certain poor and heavily indebted African countries South of the Sahara, Doc. COM (87) 418 Final of 11.9.1987, paragraph III.9.

(3) On 31.12.1991, primary commitments for the import programmes amounted to a total of 912,25 Mio ECU, or 62,77 Mio ECU for the fifth EDF and 849,48 Mio ECU for the sixth EDF.

(4) Doc. COM (92) 256 Final. The financial regulation sets 15 April as the publication date for the accounts of the sixth EDF.

(5) In addition to this sum, there were also 3 Mio ECU for studies and the operating expenses of Unit VIII-3 and 62,8 Mio ECU for programmes financed from the resources of the fifth EDF.

(6) The food strategy in Mali, Tanzania, Kenya or the Health programme in Madagascar, for example.

(7) Document with no reference number, page 16: Burundi, Guinea Bissau, Guinea Conakry, Mauritania.

(b) and (g) of the Convention. The Council could then have granted a derogation (thus making for transparent management) authorizing a wider use, under specific conditions, of general import programmes.

3.8. On 31 December 1991, the 'materials' programmes covered 30 countries and amounted to 587 Mio ECU (Annex 3). They could be divided up as follows:

'Materials' programmes on 31 December 1991

Sectors	Number of Countries involved	Commit- ments (Mio ECU)	%
Hydrocarbons	13	151,75	26
Fertilizer	9	145,56	25
Farm inputs	5	102,88	18
Health and education	3	20,60	3
Food industry and industry	7	118,98	20
Miscellaneous	5	47,43	8
Total	42	587,20	100

3.9. The above table shows in particular that the health and education sector, which is one of the means whereby the Community is able to influence the social consequences of adjustment, has remained behind relative to other sectors ([1]). This phenomenon is explicable, at least in part, by the fact that mass imports of oil products or materials and equipment for agriculture and industry lend themselves easily to the rapid utilization of appropriations and hence to operations in support of the balances of payments of the recipient States.

3.10. The currency programmes involved 21 ACP States, of which only two, Benin and Senegal, belong to the franc area. On 31 December 1991, commitments for all of these programmes amounted to 318,1 Mio ECU, of which 219,2 Mio ECU were for sectoral programmes (Annex 4). These programmes were divided up as follows (see table in next column):

3.11. As in the case of the 'materials' programmes, operations aimed more particularly at the social consequences of the economic improvements remained limited. Nevertheless, some general programmes (Uganda, for example) included purchases for the health and education sector.

3.12. Including the funds of the special programme, rapid-disbursement aid for the recipient States was to account for around 20 % of the total of their indicative programmes ([2]). On 31 December 1991, this ceiling of 20 % of total programmable appropriations had been exceeded in the case of 20 countries (Annex 6).

([1]) The sums disbursed for the programme for 2,5 Mio ECU concerning imports of medicines to Madagascar, which was adopted in November 1988, still amounted to no more than 0,38 Mio ECU in August 1992.

([2]) Paragraph 4 of the Council's conclusions of 14 December 1987, OJ C 348, 23.12.1987.

'Currency' programmes on 31 December 1991:

Sectors	Number of countries involved	Commit- ments Mio ECU	%
Social consequences of economic improvements	1	2,50	1
Agricultural inputs and spare parts	5	72,30	23
Industrial inputs and spare parts	3	35,15	11
Basic products for rural life	2	10,50	3
Inputs for the productive sector	2	32,25	10
Inputs and supplies for the food industry	3	66,50	21
Total for sectoral programmes	16	219,20	69
General and quasi-general programmes	10	98,85	31
Total	26	318,05	100

The special features of certain programmes

Speed of execution of the programmes

3.13. On 31 December 1991, the average disbursement rate for import programmes was 85 % (Annex 9). On this same date, the balances of 34 of the 106 accounting projects were shown in the central accounts of the EDF as having been disbursed. These amounted to 199,9 Mio ECU, or 27 % of the total. Taking into account the fact that the launching of the programmes was spread out over a period of time, their speed of execution is, overall, satisfactory. However, if the programmes are examined individually, several observations are called for:

(a) various programmes (Annex 7) which are indicated in the EDF's accounts as still in the process of being implemented have actually been completed, but the Commission's financial departments have not yet cleared them in the accounts: the commitments that should be cancelled in this context amounted to about 24 Mio ECU;

(b) certain 'currency' programmes are shown in the Commission's accounts for amounts that do not correspond to their real state of progress as a result of the procedure for paying out advances and because interest (in convertible currencies) received on advances deposited with commercial banks has not been entered in the Commission's accounts. In fact, advances deposited at commercial banks only become definitive expenditure within the meaning of the Financial Regulation once they have been used to pay for imports, whereas the interest received should be considered part of the miscellaneous resources allocated to the programmes, given that the financing agreements provide for them to be attached to the programmes. In order for this to be done, the bank statements which are to be forwarded to the Commission according to the financing agreements should be available in the EDF's central offices; this is not usually the case, notwithstanding that there is an instruction issued to the Delegations which has required them to be transferred to the central departments since 14 March 1991;

(c) no payments had been made against eight programmes (33,68 Mio ECU):

Country	Project No.	Programme	Date of the financing agreement	Amount Mio ECU
Ethiopia (L)	ET-046	Sectoral import programme III — fertilizer	20.2.1991	3,85
Benin	BEN-050	General import programme SAP II	29.11.1991	7,00
Burundi	BU-047	Technical assistance	7.10.1991	0,08
Uganda	UG-059	General import programme	28.10.1991	3,75
Mauritius (L)	MAS-025	Stone clearing	28.2.1991	1,00
Rwanda	RW-028	Special import programme (Hydrocarbons)	11.9.1991	9,00
Rwanda	RW-029	Special import programme (Hydrocarbons)	11.9.1991	3,00
Trinidad & Tobago (L)	TR-04	Sectoral import programme (the food industry)	15.10.1990	6,00
			Total	**33,68**

(L) = Financing by soft loan.
Of these programmes, the ones financed by soft loans in Ethiopia, Trinidad and Tobago look unlikely to be implemented in the near future. A revision of the financing agreements would appear to be called for.

(d) nine programmes had a payment rate of less than 50 %:

Country	Project No.	Programme	Date of financing agreement	%	Amount Mio ECU
Mali	6-100-39-37-08	Food strategy support programme	28.1.1988	14 %	4,1
Ethiopia	6-100-04-20-45	Sectoral import programme III — Industrial inputs	20.2.1991	42 %	13,15
Mauritius	6-100-04-38-24	Stone clearing	28.2.1991	11 %	7,70
Madagascar	6-100-60-35-27	Assistance to urban populations in the field of health and housing in Madagascar	24.11.1988	16 %	2,5
Mozambique	6-126-04-07-49	Sectoral import programme — consumer goods	20.8.1990	48 %	30,00
Sierra Leone	6-100-04-46-13	Sectoral import programme (Agriculture)	12.9.1990	24 %	6,00
Sudan	6-126-04-48-61	Telephone cables	21.6.1989	45 %	7,50
Tanzania	6-100-39-50-07	Support programme for the agricultural sector	30.1.1987	42 %	3,48
Zambia	6-100-04-56-30	Import programme and special debt programme	1.2.1990	36 %	9,50
			Total		**83,93**

Two of the programmes in the above table merit a closer examination because of their age:

(i) Mali, health section of the food safety programme;

(ii) Zambia, extended programme for the supply of agricultural inputs

A terse explanation was supplied in May 1992 by the EDF Committee for the amendment that had been made to the Madagascar health programme: it said there was a risk that imports of medicines as initially planned might be prejudicial to the interests of local industry.

Spending in excess of available appropriations

3.14. Secondary commitments for the 'inputs' section of the Rwanda food strategy support programme were in excess of the appropriations in the financing agreement:

— Primary commitments [1] 2,40 Mio ECU

— Secondary commitments: 9,34 Mio ECU

The amendment of the allocations to the financing agreement did not result in any change to the text of the agreement.

Programmes carried out in the franc area

3.15. The programmes carried out in the franc area involved ten countries and amounted to 180,1 Mio ECU; they can be analysed by sector as follows:

Sector	Mio ECU	%
Hydrocarbons	99,1	55
Health/education	18,1	10
Fertilizer	25,–	14
Sugar	10,–	6
General programmes	27,9(*)	15
Total	**180,1**	**100**

(*) Including the 18,4 Mio ECU programme in favour of Benin

(1) In the EDF's accounts, primary commitments correspond to the financing decisions, whereas secondary commitments refer to the contracts signed with third parties.

3.16. Unlike the other ACP countries, the members of the franc area do not have the problem of the inconvertibility of their currency. On the other hand, their money supplies are strictly controlled, which often leads to budgetary crises and a banking sector that is desperately short of circulating medium. In this context and insofar as the counterpart funds are generated quickly, the import programmes give no support to importers but rather provide direct or semi-direct support for the running of the State [2] through the medium of pseudo-counterpart funds in CFA Francs, which was not provided for in the Third Lomé Convention (see 5.20). In this respect, the franc area 'currency' programmes, which have been launched in two countries (Benin and Senegal), would not appear to comply particularly well with the provisions of Article 188 of the Third Lomé Convention. The counterpart funds were usually deposited in accounts at the central banks (BCEAO or BEAC [3]), the first effect of which was to alleviate the Treasuries' deficits with the central banks of the States concerned.

3.17. Thereafter, the counterpart funds were used either to make good the operating deficits of semi-insolvent public companies [4], settle the State's arrears [5], finance redundancy payments to civil servants involved in the World Bank-backed early retirement programmes for civil servants [6], pay for current budgetary expenditure [7], or even, but only to a very small extent, finance local expenditure for EDF projects whose costs the governments concerned had undertaken to bear. Generally speaking, the transformation of EDF funds into pseudo-counterpart funds often allowed the financing of operations that were not directly eligible under the third Lomé Convention.

4. THE FINANCIAL MANAGEMENT OF THE PROGRAMMES

4.1. The following observations only concern the programmes that were examined, on the spot, during the Court's audit visits (Annex 1); however, the frequency with which various situations recur implies that the Commission

(2) In Benin, the counterpart funds were said to account for 5,7 % of budgetary revenue in 1989 (SOTESA report, September 1990).

(3) BCEAO: Central Bank of the West African States (Benin; Burkina Faso; Ivory Coast; Mali; Niger; Senegal; Togo). BEAC: Bank of the Central African States (Cameroon; Central African Republic; Congo; Gabon; Equatorial Guinea; Chad.

(4) Benin; Cameroon; the Central African Republic; Equatorial Guinea; Senegal.

(5) Benin; the Ivory Coast.

(6) Benin; Central African Republic; Mali.

(7) Equatorial Guinea; Niger; Chad.

should devote greater attention to certain aspects of the management of import programmes.

The implementation of the import programmes

4.2. The EDF import programmes carried out between 1987 and 1992 in the ten countries visited by the Court were experiencing various difficulties related to the following:

(a) assessing the needs of beneficiaries;

(b) establishing programme objectives;

(c) formulating financing agreements;

(d) listing constraints and risks;

(e) choosing the means and procedures for implementing the programmes;

(f) the operational monitoring by the supervisory authorities;

(g) the implementation of accompanying measures;

(h) consultation with the national authorizing authority;

(i) the regularity of certain practices.

Assessing the needs of beneficiaries

4.3. One of the characteristics of the European Development Funds is that their implementation is preceded by an analysis of the beneficiaries' specific needs, leading, in turn, to the drafting of an indicative programme. The purpose of these programmes is to channel the aid towards high priority 'areas of concentration'. In Kenya, Cameroon, Malawi (SFFRFM ([1])) and Zambia, the import programmes were usually based closely on the objectives of the indicative programmes. In other cases, namely Benin, Madagascar, the Central African Republic and Malawi (ITPAC ([2])), the programmes were carried out in sectors that were unrelated to the indicative programmes. In Benin, the sum of 16 Mio ECU was even withdrawn from a project relating to one of the areas of concentration of the sixth EDF just a few weeks after the signing of the relevant financing agreement; 8 Mio ECU were thus paid out under a programme of inputs for private industry when the imports had already taken place. It had in fact proved impossible to find a sufficient number of importers capable of mobilizing sufficiently quickly the counterpart funds needed to satisfy the State's urgent financing requirements. In the Central African Republic, an import programme for oil products was financed (7 Mio ECU) even though the authorities had asked for authorization to be able to sell the products outside their territory, which the Commission refused to allow. During the on-the-spot audit visit in December 1990, the Central African authorities were unable to supply evidence of the entry into the country and subsequent use of products that had been delivered between seven and eleven months beforehand ([3]). In these cases, the programmes are essentially seen as a means of increasing the speed of EDF disbursements and procuring budgetary resources for the recipient State.

4.4. Even where the import programmes were in line with the guidelines of the indicative programmes, the needs that they were supposed to meet were not always well assessed. The overestimation of the fertilizer needs of certain distributors in Cameroon, the lack of prior identification of measures likely to attenuate the social effects of structural adjustment in Ghana, the refusal to import the active materials needs for the production of medicines in Madagascar, the deduction of 7 Mio ECU from the spare parts supply programme in Zambia or the financing difficulties of small and medium undertakings in Uganda, are all examples of hasty need assessments, which then resulted in serious delays in implementation. In Mozambique, the inability of the local authorities to carry out the task led to the Commission placing the responsibility for analysing needs into the hands of a technical assistance organization. The analyses carried out by a relatively inexperienced consultant were rudimentary and did not make it possible to determine the requirements of importers. Once again, the result was very slow implementation of the import programmes.

4.5. In Ghana, in 1988, the financing agreement had reserved 2,5 Mio ECU in support of a programme designed to cope with the social consequences of adjustment ([4]) without the measures concerned by the EDF financing being specified. At the time of the on-the-spot audit (December 1989), the action programmes had not yet been drawn up. It was only towards the end of 1990 that the Commission authorized the signing of supply contracts concerning medicines, agricultural equipment and vehicles.

([1]) Smallholder Farmers Fertilizer Revolving Fund of Malawi (a public-sector body with links to the Ministry of Agriculture).

([2]) Industrial and Trade Policy Adjustment Credit.

([3]) On 14 October 1992, the delegation confirmed that the State-owned company PETROCA had sold the hydrocarbons delivered at Matadi to TOTAL-Africa for 2 629 FCFA in cash. As the counterpart funds were only 2 100 Mio FCFA, PETROCA made a net profit of 529 Mio FCFA, or 1,5 Mio ECU.

([4]) PAMSCAD: Programme to Mitigate the Social Consequences of Structural Adjustment.

At the end of 1991, 20 % of the programme, or 0,5 Mio ECU, was still to be committed. This case demonstrates, given that these were rapid disbursement operations, the need for operational action programmes to be already available when the financing agreements are signed, even in fields such as this, where implementation appears to be easy.

Establishing programme objectives

4.6. In addition to deciding on the amount of EDF aid to be paid, the financing agreements also lay down programme objectives. In most of the cases examined, with the exception of Kenya (CSRP (1), the Commission's files do not indicate that the sums allocated to the import programmes are the result of economic calculations. On the contrary, it is clear, especially in the special debt programme (see 1.6 above), that funds are shared out before the measures are identified, and there is no way of establishing according to what criteria they are allocated.

4.7. In several cases, the objectives of the financing agreements were expressed in vague terms with no attempt to quantify them. In Mozambique, the programme was supposed to produce its effects in rural areas that were not specified in the financing agreement (see 4.23 above). In Malawi, the objective established in 1987 in an initial financing agreement, which provided for the building up of emergency stocks of fertilizer, received so little attention that it could never be achieved, for which reason the stocks had to be transformed into working capital in 1990 by a later agreement. In Kenya, the goals of the programme were twofold: the import programme was supposed to make it possible to fulfil the needs of the agricultural sector, which was undergoing adjustment (ASAO (2)), whereas the counterpart funds were to contribute to the reform of the cereals sector in the context of the country's food safety policy. However, as the objectives of each component had not been clearly specified and half of the imports were carried out on behalf of operations that were marginal to the fields (fertilizers and agricultural mechanization) laid down in the adjustment programme (ASAO), the link with the sectoral adjustment programme was rather lost.

(1) Cereal Sector Reform programme.

(2) Agricultural Sector Adjustment Operation.

Formulating financing agreements

4.8. On several occasions, it was clear that the financing agreements had been drawn up with relevant parts missing, which was liable to cause difficulties in terms of the sound implementation of the programmes. In Cameroon, the conditions for setting up and depositing the counterpart funds were so vague that by September 1993, five years after the start of the programme, they had still not been deposited in a separate account opened with a financial institution, as required by the financing agreement (see 4.39). In Uganda, the import quotas had already been set in the financing agreements, although it had not been laid down whether they were indicative or mandatory. As a result, the division of the imports into categories was not respected. An analogous situation was found in Mozambique. In Kenya, the financing agreement recommended the setting-up of a 'balanced' import programme which was never drawn up. In fact, competition from other import programmes (Japan, Germany and the World Bank in particular) made it impossible to reconcile the need for rapid disbursement with the constraints of a quota system. It was, moreover, stipulated, with the exception of specific cases, that imports were to be opened to competition. In the absence of a precise formulation, the exception became the rule and, out of 371 import licences, only two were put out for tender under the restricted procedure (three bids) (3). In Malawi, the implementation rate of the 'currency' programme was slowed down by the contradictions between the provisions of the financing agreement and those of the management agreement on the procedures for the payment of the counterpart funds. Such ambiguities are a source of disagreement and delays. Moreover, they can lead to different interpretations from one country to another and discriminatory treatment.

4.9. In several cases, provisions other than those in the financing agreements were applied without the agreements being amended. This practice considerably reduces the scope of the opinions issued by the EDF Committee pursuant to the provisions of Article 19 of the internal agreement on the financing and management of the EDFs. In the eyes of the ACP countries it also reduces the value of the commitments entered into under the financing agreements. In the Central African Republic, counterpart funds intended as support for EDF projects were redirected towards the financing of settlements for civil servants resigning from their jobs under the structural adjustment programme (5,5 Mio). In the end, the government ignored this stipulation and, despite vehement protests from the Delegation, the funds were partly used to pay the current salaries of civil servants (2,4 Mio ECU). In Uganda, the payment conditions for the counterpart funds were amended, so that they were paid out directly and in advance

(3) This procedure is applicable to purchases to a value of between 300 000 and 500 000 ECU.

by the government, with the result that the Delegation no longer considered it useful to monitor the imports, as it should have done under the terms of the financing agreement. The result of this was that all financial control over the programme disappeared (see 4.44). In Zambia, a transfer of 7 Mio ECU between two financing agreements referring to two completely different operations was carried out merely on the basis of an agreement between the national authorizing officer and the Commission Delegate, after the consultation of the main authorizing authority (on 11.8.1989) and the Financial Controller (on 28.8.1989) but without either financing agreement being amended and without the prior opinion of the EDF Committee. In Madagascar, the financing agreement allocated the counterpart funds to a programme for the building of subsidized housing (3 Mio ECU) and the agreement's implementation protocol provided for a yearly timetable for the utilization of the funds. However, the latter were largely frozen at the request of the World Bank, without the agreement being amended and without the matter being brought to the attention of the EDF Committee.

Listing the constraints and the risks

4.10. As most of the programmes have to meet the beneficiaries' pressing needs without delay, the amount of attention paid to the institutional constraints has sometimes been inadequate. In Uganda, Kenya, Malawi and Ghana, for example, the central banks were considered to be capable of managing the 'currency' import programmes on their own. In practice, though, these banks have not succeeded in setting up efficient systems for checking the eligibility of the applications and for issuing letters of credit to the importers. In Kenya and Uganda the delays in implementing the programmes have to some extent been alleviated thanks to technical assistance. In Cameroon the creation of counterpart funds by the Ministry of Agriculture has been seriously affected by the authorities' delays in fixing the sales prices of fertilizers.

4.11. In a number of countries with inconvertible currencies (Ghana, Kenya, Malawi, Mozambique, Uganda and Zambia), it is in practice impossible for creditworthy traders to get their assets out of the country. Foreign investors can only repatriate their profits with difficulty, whilst residents cannot finance expenditure abroad. An easy way to overcome these problems is to inflate the invoiced value of imports. This is a particularly attractive option as the exchange rates applicable in the case of import programmes are most often very favourable to the importers. The risks inherent in this situation are twofold: the eligibility rules may be got round, to the advantage of influential importers, and the effectiveness of the programmes may be reduced by an increase in prices. The ways of protecting oneself against these risks were not systematically brought to the attention of those responsible for the programmes. The reality of such risks is illustrated by the Malawi 'currency' programme, where a balance of 3 Mio ECU has remained frozen because of the central bank's refusal to maintain price controls before the loading of the goods.

4.12. In Mozambique, the Commission accurately pinpointed the weaknesses of the administration. On the other hand, it paid scant attention to the situation of continuing insecurity and was led to agree to the importation of goods which proved to be extremely difficult to distribute in rural communities. Similarly, the actual creditworthiness of importers was so poorly assessed that numerous operations were abandoned, seriously delayed or even blocked by the Mozambique authorities themselves (1). In Zambia, a programme for supplying spare parts was undertaken for the State fertilizer producer (NCZ) (2) without the uncertainties as to its long-term viability being taken into account (3). The programme eventually had to be interrupted half-way. In Malawi, although the (subsidized) fertilizers were reserved for small farmers there was no provision for any measure to combat the repeated evasions of the rules in favour of certain large tobacco producers.

4.13. Even when attention is paid to the constraints, those relating to the Commission are rarely considered. For example, certain financing agreements gave the responsibility for extensive monitoring and control work to the Delegations whereas no one had established in advance that the latter actually had the necessary resources at their disposal. In Ghana, Madagascar, Malawi, Kenya, Uganda and Zambia the Delegations have not always been able to carry out their supervisory tasks properly due to a lack of appropriate resources (suitable staff or competent technical assistance).

4.14. The delays in implementation resulting from the constraints and risks having been ignored cause the programmes to be spread out over long periods. As they thereby lose their 'critical mass' effect, this cannot but detract from their impact (see 2.5 above). For these reasons, the Commission should carry out a systematic examination of the main obstacles which the programmes are likely to encounter before the financing agreements are signed. Once the main constraints and risks have thus been identified, the checking and monitoring procedures could

(1) In mid-1992 the value of goods held at the port of Maputo for which there was no taker was estimated at 4,8 Mio ECU. The Commission was looking at ways of getting potential purchasers to buy them.

(2) Nitrogen Chemicals of Zambia.

(3) NCZ's lack of viability was structural and derived mainly from an authoritarian price-fixing system for fertilizers which the State could no longer cope with.

be adopted in full awareness of the facts and could be specifically set out in the terms of reference of the technical assistants attached to the programmes.

Implementation methods and procedures

4.15. From the very beginning it was agreed that the import programmes would abide by the rules generally applicable to EDF projects (see 2.13(a)). Generally speaking, the 'materials' programmes have suffered little disruption from these rules. Nonetheless, in the case of hydrocarbon imports (152 Mio ECU in total, of which 35,3 Mio underwent an on-the-spot examination), the payment of advances representing 60 % of the contract value amounted to an advantage granted to the petroleum companies to the financial detriment of the EDF. In fact, as the prices invoiced by the distributors were still those applicable on the date on which the products were delivered, such advances cannot be justified from an economic point of view.

4.16. The implementation of the 'currency' programmes, on the other hand, has often been hampered by the competition rules, the rules on invoicing and, to a lesser extent, the rules of origin. This was in particular the case in Ghana, Malawi, Mozambique and Uganda. In this last country, the importers were practically encouraged to split up their purchases in order to evade the constraints of the tender procedure. This led to a pointless increase in administrative work without providing any assurance that the prices invoiced by the suppliers were valid. A similar splitting-up of orders was also observed in Kenya. Since the aim was to maintain the flow of imports, the Commission should have paid greater attention to current practices in the trade and should have refrained from asking importers to suspend their relations with their usual suppliers. At the same time, it should have concentrated its controls on the risk areas, i.e. the prices invoiced and the actual delivery of goods to the recipient countries. In this respect, special arrangements or derogations could have been requested of the ACP/EEC Council (see 3.7). As the rules governing the choice of procedures to be followed for invitations to tender were not adopted in advance, importers were treated differently from one country to another, as can be seen from the following table:

Competitive tendering thresholds

(000s of ECU)

Countrys	International invitation to tender	Three bids	Private treaty	Exclusion
Benin	> 500	not required	< 500	nil
Ghana	> 500	not required	< 500	nil
Kenya	> 500	300 to 500	10 to 299	> 10
Malawi	> 500	not required	5 to 500	< 5
Mozambique	nil	25 to 500	< 25	none
Uganda	> 500	20 to 500	5 to 19	no exclusions
Zambia	nil	20 to 250 000 US$	5 to 19 000 US$	< 5000 US$

4.17. The procedure initially selected by the Commission for the payment of counterpart funds by the importers also hindered the implementation of some programmes. In Kenya, Uganda, Ghana, Malawi, Mozambique and Zambia, the financing agreements required that the total value of the imports be deposited in advance at the moment the letters of credit were made out. In view of the often lengthy delays (six months and more) in the supply operations and of the more realistic conditions that gradually came to be offered by other donors, several EDF programmes made little or no progress. In contrast, in Mozambique the government authorities granted several importers extended payment deadlines without obtaining the Community's permission in advance (see 4.38 below). These delays contributed to the erosion of the value of the counterpart funds (see 4.50 below).

Monitoring by the supervisory authorities

4.18. The import programmes are implemented by various operators who are, in principle, subject to monitoring by the national EDF authorizing officer and the Commission. In the case of 'currency' programmes, or even complex 'materials' programmes, as in Mozambique, technical assistance services have generally been made responsible for the daily monitoring of operations. Usually their monitoring of the awarding of import licences was good. The Kenya programme was, nonetheless, marked by a particularly benevolent attitude vis-à-vis the importers (see 4.7 above). As the terms of reference of the technical assistants were not always precise, the documentary aspect of the monitoring and controls on the supplies themselves were more lax. In all the cases examined, the checks on the accounts were clearly inadequate, both in the case of foreign currency bank accounts and counterpart fund accounts. Given the lack of technical assistance, examples of ineligible operations were uncovered in greater numbers in Ghana and Benin.

4.19. Aside from the technical assistance, the financing agreements included two ways of disciplining the implementation of the import programmes:

(a) the concluding of agreements laying down the methods for implementing the programmes;

(b) the setting-up of monitoring committees.

The table below gives an overview of the situations encountered during the on-the-spot checks.

4.20. For the great majority of the programmes, was decided on the conclusion of complementary agreements. In practice, these agreements served primarily to provide a framework for the creation and utilization of the counterpart funds. Subsidiarily, they facilitated the operation of bank accounts in Europe in the case of the 'currency' programmes. Experience showed that the programmes got off the ground more swiftly when the administrative agreements were negotiated prior to the financial agreements entering into force. This was in particular the case in Ghana (currency), Kenya and Malawi (ITPAC). Some of these agreements did nonetheless run into implementation problems as a result of underestimation of the constraints. In this respect, the role initially assigned to the central banks (Kenya, Malawi and Uganda) provides a good example (see 4.10 above). In most cases, the difficulties were subsequently overcome by using the services of commercial banks or technical assistants.

4.21. In six of the ten countries visited, the programmes were supposed to be supervised by monitoring committees, most often made up of representatives of the national authorizing authority, the central bank, the ministries concerned and the Commission (through its Delegation). This system rarely functioned well, either because the committee never met (Central African Republic, Madagascar, Mozambique and Uganda) or because it did not require regular and detailed reports to be submitted (Kenya and Cameroon).

Implementation of the accompanying measures

4.22. Under the special conditions set out in the financing agreements (1), the recipient States undertake to take the measures necessary to ensure that the programmes are carried out fully. In practice, however, the ways in which the measures were to be monitored were rarely specified. Furthermore, they were often too generally worded to be suitable for an effective check. In Benin, the obligations undertaken related mainly to the implementation of the

(1) Known as 'technical and administrative provisions for implementation'.

Country	Programme	Administrative agreements	Monitoring committee	Amounts Mio ECU
Benin	Oil	not provided for	not provided for	11,00
	Currency	not provided for	not provided for	18,40
Cameroon	Fertilizer	provided for	provided for	15,00
Ghana	Fertilizer	provided for	provided for	9,00
	Currency	provided for	not provided for	11,50
Kenya	Fertilizer	provided for	provided for	42,00
Madagascar	Oil	provided for	provided for	17,25
Malawi	Fertilizer	provided for	not provided for	39,81
	Currency	provided for	not provided for	13,50
Mozambique	Misc.	provided for	provided for	70,00
Central African Republic	Oil	provided for	provided for	7,00
Uganda	Currency	provided for	provided for	32,25
Zambia	Currency	provided for	provided for	14,2
	Fertilizer	provided for	provided for	17,80
	Spare parts	provided for	provided for	8,00

structural adjustment measures negotiated with the IMF and the World Bank, which did nothing to ensure that the EDF operations were fully carried out, or that the counterpart funds were used efficiently. In this respect, the last agreement signed within the framework of the seventh EDF looks more hopeful.

4.23. In Mozambique, the government undertook to implement measures to:

(a) reform the public finances;

(b) encourage the rapid implementation of the programme;

(c) guarantee the best possible use of the counterpart funds;

(d) facilitate the effective distribution of the aid to the final recipients.

These measures remained no more than good intentions and there was no dialogue between the partners. For example, the procedures for invitations to tender and customs clearance proved to be ineffective. The knowledge which the Commission had at its disposal concerning the actual state of Mozambique's public finances was inadequate in a case concerning the management of macro-economic programmes. Finally, there is no evidence to indicate that it was indeed the rural populations who were the main beneficiaries of the programme. On the contrary, the information received during the Court's on-the-spot check tends to indicate that, to a large extent, the consumer goods got no further than greater Maputo.

4.24. In Zambia, the government had filed neither the reports nor the action plans required by the implementation agreements in respect of the financing agreement for the import programme for agricultural inputs intended for small farmers. As the goods were imported quickly, the Delegation had scant means of ensuring that these obligations had been met. On the other hand, the domestic sales prices for fertilizers do seem to have been fixed, as agreed, at a level close to the import prices. As for the provisions relating to the counterpart funds, they were largely ignored, as they were currency programmes that had been examined in October 1990 (1) (see 4.40).

4.25. In Cameroon, the State had undertaken to introduce a mechanism for taxing rice imports in order to support the rice projects in the North. These latter, although not financially viable, nonetheless constitute an important link in the food-sufficiency policy of that country. As these obligations were not met, the prospects for the survival of these projects are not good, and nor are those for the creation of counterpart funds by SEMRY.

4.26. In Malawi, the government seriously delayed the fertilizer import programme because it repeatedly deferred payment of the subsidies which it owed to the importing body, which it had obliged to sell the imported fertilizer at reduced prices.

Consultation with the national authorizing officer

4.27. In cases where the import programmes ran into problems because the recipient State was not meeting its obligations, the consultation procedures with the national authorizing authority (2) turned out to be rather ineffective.

4.28. In Kenya, the authorities never took any action to ensure that large importers paid over the counterpart funds without delay at the end of the contractual 90-day period. In Mozambique, the implementation of the second programme was considerably delayed by the national authorizing authority's inability to learn from the lessons of the first programme. It was not possible to establish any kind of dialogue, even where it was a question of deciding on the use of the counterpart funds. In Cameroon, the Delegation refrained for a long time from intervening with the national authorizing authority concerning the creation and use of the counterpart funds, with the result that it was kept at arm's length during the discussions which led to the adoption of the 'performance contracts' concerning the financial rehabilitation of the fertilizer distributors (3) (see 4.39 and 5.9). In September 1992 the protocols on the administration of the counterpart funds had still not been signed by the Cameroon authorities, as the attempts to influence the national authorizing authority had remained without effect. Payment of the counterpart funds was thus delayed by at least three years due to the authority's failure to act. In the Central African Republic, the presence of the national authorizing authority still did not result in the setting up of a monitoring committee, which that same authority was supposed to chair. Nor was it possible to obtain from the national authorizing authority proof that the petroleum products supplied had indeed arrived in the country and that they had not been re-sold to a third party (see 4.3). In Uganda, although the government undertook in the financing agreement to provide the Community with

(1) 5 ACP-ZA 041 = 4,0 Mio ECU
5 ACP-ZA 040 = 6,8 Mio ECU
6 ACP-ZA 010 = 3,16 Mio ECU.

(2) See Articles 227 and 228 of the Third Lomé Convention.

(3) SODECOTON and SEMRY (State-owned companies).

all relevant information on the implementation of the programmes, the national authorizing authority only took action after some delay when there was a problem with the dispatch of the legal documents relating to imports financed by the EDF.

4.29. In Malawi, the national authorizing authority did not succeed in getting the central bank to agree to maintaining price controls on loading, which led to the currency programme, with an unused balance of 3 Mio ECU (see 4.11 above), being frozen. Similarly, the fertilizer supply programme was delayed by about two years because the national authorizing authority did not have the necessary powers to ensure that the administrative bodies upheld the commitments entered into by the State. In Zambia, in April 1990, the national authorizing authority was unable to prevent an untimely withdrawal of 190 Mio ZMK, or 6,4 Mio ECU, of counterpart funds. This money was intended to be used for a short-term loan by the government to NCZ and the Commission was only informed of this intention after the event. In Ghana, the national authorizing authority was unable to prevent the confiscation of counterpart funds or ensure that they were rapidly returned by the State.

The regularity of certain practices

4.30. The provisions of Article 223 of the Third Lomé Convention provide cover for unexpected increases in costs and expenditure which may arise during the implementation of the programmes. 'In exceptional circumstances' the excess payment may be financed by the EDF. On the basis of these provisions, the principal authorizing officer for the sixth EDF decided to increase the ceiling of the financing agreements for certain 'currency' programmes in Benin and Uganda and for a 'materials' programme in Mozambique. The procedure followed for raising these ceilings does not appear to conform to the provisions of the Convention, or to those of the internal financing agreement. In fact, as it was a question of financing new operations and not of following up measures already under way, which would have been doomed to failure for lack of a modest supplementary financing, the matter should have been brought to the attention of the EDF committee. The Financial Controller has not expressed any reservations about this practice.

4.31. In the case of the petroleum product import programme in Madagascar, the national authorizing authority, in 1988, ordered 113 500 tonnes of petroleum products even though the financing agreement only provided for 100 000 tonnes. The Delegation considered that any exceeding of the limit could be covered using the 15 % facility provided for in Article 223-6 of the Third Lomé Convention. This sort of practice is quite clearly irregular, since, ***ex hypothesi***, the financing agreements include adequate appropriations to cover any exceeding of the price limit and contingent expenditure. Meeting the cost of excess expenditure within the 15 % limit by using funds left over from other projects can only be seen as a stop-gap measure, to be resorted to in exceptional circumstances. A 15 % margin above the agreed ceiling once a contract has been launched cannot be permitted. In the case in point, the country's account did not show any available residue and once the increase had been authorized its account was in effect considerably overdrawn. This situation has to be seen in the light of the provisions of Article 19 of the financial regulation (1), which lays down that formal approval of proposals for commitments of expenditure is intended to confirm the availability of appropriations, which was not the case here.

4.32. In the case of several 'currency' programmes, whereas the financing agreements, or the agreements entered into under them, provided for payment to be made in tranches, each new tranche being disbursed only once there was evidence that the previous tranche had been properly used, the Commission, at the request of the beneficiary States, paid out the new tranches in advance, without these conditions having been fulfilled. This was the case in Kenya, Uganda, Benin, Malawi and Ghana. In these cases, the Financial Controller, whilst expressing reservations, did not consider it necessary to withhold his approval.

4.33. On several occasions the Commission's Financial Controller gave his approval 'for the purpose of regularizing the situation' (AT Mozambique, for example,) because he considered himself to have been confronted with a *fait accompli*. Such a practice, even though not expressly forbidden by the financial regulation (2), would appear not to be in accordance with the principle of prior approval.

Management of the counterpart funds

4.34. The management of the counterpart funds comprises two stages: the creation of the funds and the subsequent spending of them. In the case of the sixth EDF, these stages were organized by the financing agreements and in many countries specific agreements set out the procedures to be followed, and sometimes even the fields in which the funds were to be used. A large number of the problems encountered may be traced back to the numerous different systems for administering the funds.

(1) Financial regulation of 11 November 1986 applicable to the sixth European Development Fund; OJ L 325, 20.11.1986.

(2) Article 19-2 of the financial regulation governing the sixth EDF specified that approval may not be 'conditional'. It may also be assumed that approval accompanied by reservations is also excluded.

Inadequacy of the operating framework

4.35. The counterpart funds of six of the 15 programmes which were subject to an on-the-spot visit (see 4.19 above) were supposed to have been subject to a management agreement, to be reached between the national authorizing authority and the Commission Delegate. Three of these agreements were drawn up, with Kenya, Madagascar, and Mozambique (1). Agreements were also concluded for five other programmes, although this was not provided for in the financing agreements. The countries concerned were Malawi, Uganda, and Zambia (three programmes). In the end, only half of these agreements were implemented. It is probable that in the absence of explicit provisions in the Lomé Convention certain national authorizing authorities encountered difficulties in getting their countries' financial administrations to accept that the counterpart funds, which until that point had not been subject to any restrictions, were supposed from then on to be managed jointly with the Commission.

4.36. The practical effect of these agreements was generally reduced, due to the fact that they did not include a precise plan for the use of the counterpart funds and there was no provision for any special procedure in the event of one of the parties defaulting.

Creation of the counterpart funds

4.37. In the countries with weak currencies, any delay in the payment of the funds in relation to trade practices constitutes a serious advantage for the debtor, which results, for the EDF, in an equivalent reduction in the purchasing power of the counterpart funds. For this reason, the payment deadlines provided for in the financing agreements need to be studied carefully and then respected, so as not to create conditions of unfair competition, such as might penalise certain enterprises. In practice, although the EDF was strict with regard to some importers, excessively long payment periods were observed in several cases.

4.38. In Mozambique importers were supposed to pay for their purchases when the goods arrived, using bank loans to do so if necessary. In actual fact, the banking sector did not bridge the payment gap and periods of time that were often large (several months and even several years in extreme cases) were granted to those who could not pay immediately, contrary to the provisions of the financing agreement. During the on-the-spot check, it turned out that amounts due totalling some 2 Mio ECU were still outstanding, whilst financial interest of at least 0,58 Mio ECU had been paid to the authorities and had not been credited to the counterpart funds. In the Central African Republic, the importer of petroleum products was granted four months within which to pay, which he then exceeded by three months. On this occasion, the counterpart funds effectively gave the importer the benefit of an unauthorized subsidy amounting to about 1,5 Mio ECU.

4.39. In Cameroon, the absence of an agreement specifying the methods for implementing the financing agreement served as a pretext for the fertilizer distributors to keep the counterpart funds resulting from their sales and to consider them to be permanent sources of finance. Despite several reminders, the amounts owed by the distributors (totalling 17,5 Mio ECU) had still not been paid into the counterpart fund account in June 1992, although the fertilizer had been delivered to Cameroon in two loads in 1989 and 1990. The precarious financial situation of SODECOTON (2) and of SEMRY (2) leaves room for doubt as to their actual ability to repay this sum, quite apart from any question concerning the repayment of subsidies by the State.

4.40. In Zambia, the State-owned enterprise NCZ was granted a payment deferral of nine months in the case of one of its import programmes. This deadline was subsequently extended by several years as a result of a rescheduling of the company's debts. In the case of its import programme for raw materials for fertilizer production, NCZ was unable to pay over the counterpart funds which it owed to the State (about 16 Mio ECU). For this reason the Commission was obliged to agree to half of the amount owing being considered a capital injection (stabilization subsidy) whilst the other half was transformed into an advance to be repaid in four annual tranches from 1992 to 1995 (3).

4.41. Malawi's fertilizer import programme was supposed to lead to the constitution of a fund of working capital to be used for the financing of the subsequent supply campaigns for small farmers (maize producers). During the June 1991 on-the-spot visit, it was obvious that the missing funds could only be made good using gifts from other donors. Its prospects of operating autonomously were clearly compromised because the proceeds of the sales were not adequate for financing the marketing costs and the costs of replenishing stock.

4.42. In the case of the Kenya, Malawi, Uganda, and Ghana 'currency' programmes, accounts had been opened with European banks by the recipient States in order to

(1) The agreements that were planned for the Benin, Ghana and Cameroon programmes were not concluded.

(2) SODECOTON and SEMRY (State-owned companies).

(3) This aid is on top of the 190 Mio ZMK (6,2 Mio ECU) withdrawn without authority from the counterpart funds (see 4.29).

receive the advances paid by the EDF. The interest paid by the banks on these deposits was supposed to be used for financing additional imports and building up counterpart funds. During the on-the-spot visits, it was observed that the Delegations concerned had not followed up the problem and no addition to the counterpart funds had been made. The sums involved amounted to about 1,25 Mio ECU in the case of Kenya, 1,3 Mio ECU in the case of Malawi and are not known for Uganda [1]. For its part, the Ghana Commercial Bank in London, where the Commission had deposited the advances for Ghana's 'currency' programme, had not paid the interest provided for in the financing agreements. At the time of the audit the Commission had taken no action here in spite of the size of the amounts left on deposit due to the prolonged freezing of the programme.

4.43. In December 1989, during the on-the-spot visit to Ghana, delays were observed in relation to the payment of counterpart funds for the fertilizer programme. In fact, only 64 % of the 626,7 Mio Cedis had, at the time, been received. The Delegation's annual report for 1990 shows that the payment rate was still below 30 % one year later. In July 1991 an agreement seems to have been reached with the authorities to overcome the problems encountered up to that time.

4.44. In the case of Uganda, although the financing agreement stipulated that the importers were to pay the counterpart funds themselves in settlement of their purchases, it was the Bank of Uganda which paid the counterpart funds on the date on which the advances were deposited by the Commission. In three cases, however, delays resulted in a loss of value equivalent to about 4,5 Mio ECU which at the time of the audit in December 1990 had not been made good in any way by the central bank. In April 1990, the Commission, faced with an inextricable accounting situation, negotiated a repayment of 1 003 USH with the Bank of Uganda. In ECU terms, this represented less than 20 % of the initial loss. A more formal procedure for modifying the specific conditions of the financing agreement would probably have rendered the obligations of the Uganda authorities explicit, thereby ensuring better safeguarding of the value of the counterpart funds.

4.45. Whereas in some countries the counterpart funds are deposited at commercial banks in interest-bearing accounts, in many other cases these funds are paid into a non-interest-bearing account opened with the central bank. This practice leaves the funds unprotected against the effects of monetary erosion. Such a situation was found in Benin, Madagascar, Ghana, Mozambique, Malawi and Uganda.

(1) An audit of this question was financed by the EDF in February 1991.

Use made of counterpart funds

4.46. Originally, the counterpart funds were supposed to be used mainly for the financing of development operations, and in particular to cover national expenses arising from EDF projects. This principle derived from the position taken by the Commission, namely that development did not come from providing support to the balance of payments but from the effective use, for development purposes, of counterpart funds generated by macroeconomic aid. Subsequently, in view of the volume of the counterpart funds, the limited absorptive capacities of the projects and the extent of the financing requirements of the structural adjustment programmes, the Community gradually moved towards allocating counterpart funds to budget resources being used to finance economic rehabilitation policies. However, as this change only came about gradually, it resulted in hesitations and delays which reduced the effects expected from the use of the counterpart funds.

4.47. In Uganda, it had been agreed with the national authorizing authority that the counterpart funds would, in principle, be used on EDF projects. On this basis, the Delegation used them systematically for all local payments without explicitly warning the Commission's central services, whose accounts were thereby distorted, the commitments being entered in the accounts under EDF appropriations whilst the corresponding payments were charged to the counterpart funds.

4.48. In two of the countries visited by the Court (Kenya and Malawi) the financing agreements had expressly stipulated the fields in which the counterpart funds were to be used. In these two cases, the funds were used quite rapidly for the objectives stipulated. In Malawi (the 'currency' programme), where the objective was to rebuild the national maize reserves, it proved impossible to ensure that the prices applied by the State grain marketing body (ADMARC) [2] did not include a substantial margin (about 20 %) which allowed it to reduce its operating losses. In Kenya, the counterpart funds were quickly used by the NCPB [3] to buy up the maize from the 1989 and 1990 harvests.

4.49. In five countries, given the absence of a pre-established programme for their use, the counterpart funds moved over extended periods through a series of non-interest-bearing bank accounts, whilst at the same time the local currency was rapidly losing purchasing power. When

(2) Agricultural Development and Marketing Corporation.

(3) National Cereals and Produce Board.

the on-the-spot visits were made, losses of value on funds deposited in local currency were estimated to be as follows:

(i) Ghana: actual situation unknown

(ii) Madagascar: 2,51 Mio ECU

(iii) Mozambique: actual situation unknown

(iv) Uganda: 14,9 Mio ECU

(v) Zambia: 9,5 Mio ECU.

4.50. If a detailed programme for using the funds had been drawn up, that might have led to them being used more rapidly and to their purchasing power thus being maintained. The financing agreements for Zambia did provide for such programmes to be drawn up but in fact they never were.

4.51. In Ghana and Zambia, notwithstanding the principle of joint administration of the counterpart funds by the national authorizing authority and the Commission Delegate, irregular withdrawals were made by the national authorities from the counterpart accounts. The amounts thus withdrawn were 5 663 Mio Cedis [1] in Ghana and 190 Mio Kwacha (6,2 Mio ECU) in Zambia.

4.52. In Mozambique, on 25 April 1990, the Commission agreed to the funds for its programmes not being deposited in a special bank account. Subsequently, on the pretext that the account in question was also used for operations other than Community aid, the Bank of Mozambique refused to show the bank statements to the Commission. The actual balance of the funds therefore remains unknown and there is no proof that they were properly used for eligible expenditure. In fact, the administrative agreement relating to the counterpart funds provided for in the financing agreements pinpointed three fields of use:

(i) repayment of the State's debt to the Bank of Mozambique (60 %);

(ii) emergency aid and aid for alleviating poverty (30 %);

(iii) financing of local expenditure for EDF projects (10 %).

The 'Counterpart Fund Committee' set up to supervise the operations has never actually done so, with the result that the agreement on the administration of the counterpart funds has remained a dead letter. At the time of the on-the-spot visits, only two emergency food aid operations, representing 12 % of the funds available for this purpose, had been used.

4.53. In two countries in the franc area (Benin and the Central African Republic) the counterpart funds were used to help to prop up the public finances. These operations were supported by the World Bank and came within the framework of the structural adjustment programmes.

4.54. In Benin, the import programmes served as a mere support for the creation of counterpart funds which were supposed to finance:

(a) the national Ministry of Education's payment arrears (study grants and maintenance work in schools) amounting to 4 Mio ECU;

(b) a programme of early retirement for civil servants for 11 Mio ECU.

4.55. At the time of the on-the-spot audit in December 1989, although there were plans to finance the expenditure for the beginning of the school year 1989-90, an amount of 600 Mio FCFA (1,7 Mio ECU) had been paid to the State to cover the grants for the years 1985 to 1988. As for the voluntary redundancy programme, the EDF counterpart funds only permitted the financing of 60 % of the redundancies planned and there was no indication as to which other donor would finance the remaining 40 %.

4.56. In the Central African Republic, the counterpart funds were supposed to be used to finance local expenditure for two EDF rural development programmes. At the request of the national authorizing authority, the funds were redirected to a programme of early retirement for civil servants. At the end of December 1990 the government had deposited about 6,1 Mio ECU in a double signature account. In 1991, 4,9 Mio ECU was used, half of that amount for a civil service redundancy programme and the other half to pay current salaries for the police and army. This irregular use of the funds illustrates the scant security which a double signature account system affords, since it does not follow through to payment to the final recipient. In cases like this there is clearly no way of avoiding

[1] As a result of this withdrawal the account became overdrawn. Counterpart funds from bilateral British aid were also involved. The checks carried out by the Commission estimated at 1 979 Mio Cedis (or 5 Mio ECU) the sums concerning counterpart funds of EDF origin.

technical assistance. In October 1992 the Commission said that, after vehement protests from the Delegation, the Central African government had finally made good the funds that had been withdrawn unwarrantedly.

5. SUPERVISION AND EVALUATION OF THE PROGRAMMES

5.1. The implementation of the import programmes has the special feature of being mainly located downstream of the EDF's central accounting system. In order to ensure adequate monitoring, therefore, the supplier of funds is obliged to maintain a stronger local presence. Furthermore, the local administrations or financial institutions rarely have the administrative capacity needed to follow through such large-scale programmes properly. An examination of the sixth EDF programmes shows, however, that a local presence alone does not guarantee the success of programmes the implementation of which should conform to certain clear principles, whether in respect of the objectives pursued, the implementing methods or the specific responsibilities falling to the various bodies concerned. Lastly, the assessment of the effects of import programmes is a particularly delicate exercise, which has to be prepared and monitored very carefully.

Supervision of the programmes

Role of the delegations in ACP countries

Feasibility studies

5.2. In the ACP countries, the primary responsibility for organizing the programmes lies with the Delegations, because they are well informed about local circumstances. In practice, however, experience has shown that, in the case of the 'currency' programmes, the Delegations have only a very imperfect understanding of the prevailing banking and trading procedures because these fields are often foreign to them. The experience gained in Malawi, Ghana and Uganda illustrates this point. This is why it seems to be a good idea, prior to undertaking new operations, to carry out feasibility studies and to analyse not only the implementing procedures but also the workload which the application of the procedures planned entails for each body involved.

Accounting monitoring of the programmes

5.3. Where the counterpart funds are generated through a number of operations and the programmes are carried out in tranches, the operations have to be traced back using a strict accounting system. This is one aspect which has been widely ignored by the Delegations. Several of them discovered only after a significant delay the problems entailed in the implementation of the sixth EDF, when they tried to ascertain whether the authorizations issued had in fact produced results. Too frequently, the Delegations had concentrated their monitoring activity on the prior authorization of operations and had failed to pay sufficient attention to the task of implementation on the ground. In several countries, as a result, audits of the accounts had had to be commissioned in order to establish the actual financial situation of the programmes. This was in particular the case in Cameroon, Uganda, Ghana, Kenya and Mozambique.

Assessment of the results

5.4. Whilst in most cases the carrying out of import contracts and, to a lesser extent, the generation of the counterpart funds could be definitively surveyed, the same cannot be said of the impact of the programmes with regard to the objectives pursued. In many cases, it turned out that the Delegations did not realize that they were responsible for evaluating the success of the programmes. Most frequently, even if they had wanted to, they would not have been in a position to do so, due to a lack of appropriate references and yardsticks. The volume of the sums implemented by the EDF would require that, when preparing measures, greater attention be paid to the objectives pursued so that proper methods for measuring the impact of the measures undertaken could be drawn up. It should be stressed here that the impact of the programmes has to be felt first of all among the importers, then among the final recipients of the counterpart funds. Giving the import programmes a macro-economic significance ought not, in itself, to constitute a reason for excluding any possibility of evaluation.

5.5. When the programmes are being prepared, the Delegations should therefore pay greater attention to the operational framework within which they will be called upon to carry out their responsibilities. At the same time, it would be desirable for the measures implemented by the various suppliers of funds to be better coordinated. Improved coordination would make it easier to list the constraints applying to and the special characteristics typifying the intervention fields. Coordination would also make it possible to ensure that the programmes of the various suppliers of funds compete with one another. Greater harmonization of the suppliers of funds in respect of implementation procedures and the monitoring of programmes, finally, would simplify the task of the ACP countries and would reduce the difficulties which arise when, for example, it is necessary to establish that the goods are being imported, and the counterpart funds used, in accordance with the regulations (1).

The role of the Delegations in the implementation of the programmes

5.6. When the programmes are actually being implemented, the Delegations are unable, without outside help, to ensure that the operations are monitored in detail. This is why recourse to technical assistance services has become an increasingly common practice. Under these conditions, the Delegations have to carry out a three-fold task:

(a) to guide and control the technical assistance action;

(b) to account to the central services for the implementation of the financing agreements and the accessory agreements;

(c) to agree with the national authorizing authority measures to be taken to ensure that the operations are properly carried out.

5.7. The Court's on-the-spot controls showed that the Delegations had rarely taken action to clarify the terms of reference of the technical assistants and to remove the doubts and ambiguities concerning the tasks entrusted to the latter. Some Delegations had found, to their surprise, as they went along that the services provided by the technical assistants left something to be desired, both as regards the extent of their work and the form and content of the accounts they rendered. This was particularly true in the cases of Uganda and Mozambique. The task of assessing the impact of the programmes on the final recipients was ultimately largely neglected by the technical assistants. More explicit terms of reference as regards the tasks to be carried out, specifying more clearly the type of relations to be maintained with the delegation and the national authorizing authority, should improve the monitoring of the implementation of the programmes.

5.8. Information was sent to the central services only irregularly. Although in the case of some programmes the central country desks were reasonably aware of the progress of the programmes (Benin, Ghana or Kenya, for example), they more often than not had only limited information on the actual state of progress. In fact, the Delegations generally contented themselves with forwarding the periodic reports of the technical assistants, where these existed, without further comments (Mozambique, Uganda), whilst in numerous cases they were late in drawing up their own quarterly or annual reports. Where there was no technical assistant (Malawi, Cameroon, the Central African republic, Zambia) the information received was scant.

5.9. Without clear guidelines as to the extent of their role, the Delegations often paid little attention to the physical, administrative and accounting monitoring of the programmes and left the central services unaware of the practical difficulties encountered. In Cameroon, for example, the Delegation has for a long time shown no interest in the fertilizer distributors' situation, or in the generation of the counterpart funds, and it only reverted to its supervisory role when an independent audit was carried out. In Ghana, although the Delegation had properly supervised the 'currency' programme, it had not managed to organise similar supervision for the 'materials' programme, probably due to inadequate coordination with the assistance given by other suppliers of funds (2). In Malawi, supervision of the 'currency' programme was affected by the fact that the post of economic advisor remained vacant for an extended period. In Mozambique, the Delegation relied too heavily on the technical assistance and thus lost control of the programme, both as regards the administration of the imports system and as regards the counterpart funds. In Uganda, more attention should have been paid to the checking of the papers relating to imports, the monitoring of banking transactions and the supervision of the services provided by the technical assistance.

5.10. The inadequate framework in which the counterpart funds were placed resulted in a very unfocussed form of management by the Delegations and they did not always clarify their responsibilities in the light of that management. The central services, for their part, were only partially informed of the actual implementation procedures.

5.11. The extent and quality of relations with the national authorizing authorities varied from country to country. It was observed that, in numerous cases, the Delegations were unable to establish the dialogue with the national authorities provided for in the Lomé Convention, or that, where these were established, the results were very limited (see 4.28 and 4.29). Moreover, the delegations rarely asked the central departments to take action to find a way round the obstacles encountered.

(1) See, in this connection, the difficulties encountered in Ghana, Mozambique, Uganda, Malawi and Zambia.

(2) Especially regarding the monitoring of stocks and sales of fertilizers.

Supervision by the central departments

5.12. Whereas projects of the 'traditional' type are subject to considerable supervision by the central departments, for a long time the import programmes of the sixth EDF were not subject to such supervision. Although the 'materials' programmes were treated in the same way as supply contracts as far as the awarding and implementation of them were concerned, neither the technical nor the financial departments were given responsibility for the overall supervision of the import programmes or, more specifically, for managing the counterpart funds. As a rule, the country desks usually played a less prominent role once the financing agreements had been signed and their involvement with the programmes ceased once the payments were entered in the central accounts.

5.13. The fact that the implementation of programmes was, for the most part, appraised in terms of commitments and payments entered in the central accounts no doubt goes some way towards explaining the reluctance of the country desks to monitor programmes beyond this stage (1). Such an approach is, however, deceptive, since in the case of the 'currency' programmes, it fails to indicate actual progress made, while for the majority of the programmes it overlooks how the counterpart funds are generated and how they are used (see 5.21 below).

5.14. In order for the central departments to be able to provide genuine support for the Delegations when programmes are being implemented in recipient countries, programme supervisors should be designated, whose task it would be to ensure that appropriate measures were taken to guarantee the successful completion of the programmes.

Differences of opinion between departments

5.15. Appraisals of the operations of the sixth EDF have shown on several occasions that the various departments of the Commission have different perceptions of the objectives and guiding principles of the programmes. Thus, in the case of Mozambique, it transpired that in June 1991 the Delegation had adopted a 'minimalist' approach where the counterpart funds were concerned, taking the view that politico-economic reality could not be ignored and that it had to avoid getting involved in discussions with the government about the way the counterpart funds were actually allocated. For their part, the central departments believed that the Commission should not abandon the idea of channelling the counterpart funds towards what were considered priority sectors. This explains how certain ambiguities arose which were detrimental to good management. In Uganda, although the central departments believed that imports should concern certain sectors which had experienced difficulty in obtaining import licences, the Delegation had opted for giving priority to the rapid use of the funds. This resulted in licences being granted for imports of doubtful eligibility and made it extremely difficult to obtain the information needed for the purpose of checking the imports in question. For very similar reasons, the Delegation in Ghana chose to postpone implementing the programme until the State had fulfilled its commitments. For the 'currency' programme in Kenya, the central departments considered it necessary to modify the procedure for transferring the counterpart funds so as not to cause delays by imposing unacceptable financing conditions on importers. With regard to a similar case in Malawi at the same time, the central departments did not consider it necessary to make the same sort of modifications to the conditions for transferring the counterpart funds.

Instructions governing the import programmes

5.16. When the Third Lomé Convention came into force, the Chief Authorizing Officer sent a 'memorandum concerning sector-based import programmes' to the departments and Delegations under his jurisdiction. The document in question, which was revised in February 1989, was accompanied by the qualification 'does not constitute formal instructions' owing to the experimental nature of the programmes at the time. This situation probably explains the coexistence, at that time, of conflicting notions of the objectives to be pursued, the priorities to be selected, the procedures for implementing programmes and the scope of departmental responsibilities.

5.17. In order to clarify which objectives were to be pursued and which principles observed by all departments, in July 1990 and March 1991 new instructions were included in the 'Collection of instructions' (2). The instructions in question deal with certain practical procedures for implementing the import programmes and the way in which the counterpart funds are to be generated, monitored and disbursed. In practice, the various instructions were only applied to programmes which were funded once the seventh EDF had come into force. They thus call for the following observations.

Instruction relating to the 'currency' programmes

5.18. According to the instructions, the principal objective of the 'currency' programmes is to supply recipient

(1) See page 26 of the annex to the 1990 revenue and expenditure account (COM 91-132 final, 15 April 1991): 'the implementation of the import programmes appears satisfactory at the end of 1990. The figures for commitments and payments are the following: Commitments: 797,1 Mio ECU, Payments: 567,5 Mio ECU'.

(2) Latest updated edition: 1988.

countries with a 'rapid disbursement facility' to support their balance of payments. Such support comes within the framework of the structural adjustment of external trade transactions, i.e. the abolition of administrative checks and red tape with a view to liberalizing trade.

5.19. In order to ensure that programmes are as effective as possible, the EDF has selected the principles of rapid disbursement, limitation of administrative burdens imposed on the ACP states and observance of trading and banking practices.

In spite of a clear attempt to simplify things, the instructions in question are still cumbersome in places, indicating how difficult it is to depart from public-sector practices when dealing with the private sector. In this respect, the procedures for issuing invitations to tender and the rules concerning billing currencies should be made more flexible. Similarly, in the financing agreements the checks that are to be carried out on the eligibility of imports should be more closely related to the risks that are run, e.g.:

(a) checking loading prices to ensure that there is no over-invoicing with a view to transferring funds clandestinely outside the ACP countries, as checks on prices at the moment of arrival are ineffective in this respect;

(b) checking importers' solvency in order to avoid problems with the generation of the counterpart funds;

(c) checking goods imported by the recipient country to ensure that they are not re-sold abroad with a view to building up a 'nest-egg' of convertible assets; or, at the very least, obtaining bank guarantees;

(d) carrying out checks on final recipients in order to ensure that funds are not misappropriated by influential groups (town/countryside clashes, ethnic groups, producers of certain products, etc.).

5.20. On the other hand, the instructions are still not explicit enough concerning certain subjects, particularly as regards coordination with other providers of funds and the tasks for which the various Commission departments are responsible. Lastly, the instructions continue to make it possible to implement 'currency' import programmes for the benefit of countries in the franc area, which is not in line with the requirement to give support to importers. The aim in fact is either to subsidise a body which has no counterpart funds, or to supply the State with the fiscal resources in CFA francs that it lacks, the importation process only being used as a pretext to claim funds.

Instructions concerning the establishing and monitoring of the counterpart funds

5.21. The instructions issued by the Commission (March 1991) lay down that the counterpart funds are 'public funds which are allocated to the recipient States', the management of which must come within the framework of a 'coherent policy for public finances'. As such, the funds should be established on the basis of the import values converted at the exchange rate which is applicable when the goods are imported into the recipient country. Furthermore, they should be deposited according to the agreed timetable for similar commercial transactions. Audits should deal with the way the account is replenished and the way funds are used. Although the objectives of the audit are clearly stated, the Delegation's role is ambiguous. Indeed, although it is laid down that the delegation is to receive the bank statements and that it shall have access to the documents held by the ACP authorities, its only explicit obligation is to submit a quarterly report to the central departments 'based on the information supplied by the authorities'. It is not itself obliged to keep complete accounts concerning the programme ([1]), although that is indispensable if there is to be an effective audit. Such provisions are not sufficient to ensure that there will be no further monitoring problems of the kind that characterized the implementation of the import programmes of the sixth EDF.

Instructions concerning the guidelines for using the counterpart funds

5.22. The guidelines for using the counterpart funds laid down by the Commission reflect the following fundamental principles:

(a) the need to distinguish between minor recipients and more important recipients of aid: with regard to the latter, the project approach is to be dropped in favour of a new approach based on budgetary support;

(b) the need to maintain a general approach to the counterpart funds and to apply the same general principles to them;

(c) the need to establish a scale of priorities:

(i) the social dimension of adjustment;

(ii) support for the sectors concerned;

(iii) restoration of public finances.

([1]) It is essential to monitor banking transactions in Europe and not only those of the counterpart funds.

(d) the need to establish when funds are to be used as soon as the financing agreements have been signed;

(e) the need to clear funds which have not been used as part of concerted action taken by all donors.

5.23. Comparing these new guidelines with previous experience shows that the EDF approach has definitely been rationalized. The instructions issued by the Commission nevertheless involve a considerable risk, as they fail to specify the actual scope of cooperation between aid donors. The fact is that without close cooperation between the various suppliers of funds to a given Member State, it will remain practically impossible to carry out comprehensive checks of the way the State in question implements its budget. This being so, it would be a fallacy to assume that the mere device of entries in the budget will be enough to ensure that the counterpart funds are being correctly used in the sectors that have been given priority. In any case, Commission Delegations are not equipped to carry out the checks in question unassisted. Lastly, since the counterpart funds were mainly intended to make up for shortfalls in revenue in the ACP States, particular attention should be paid to the matter in the context of the structural adjustment policies to which the EDF is required to contribute.

5.24. Despite the considerable need for aid with regard to fiscal policy, regulations concerning tariffs and the strengthening of tax collection in the ACP States, in practice, these areas have barely been touched on by aid from the sixth EDF. However, if the aim of measures taken within the framework of the EDF is to 'do away progressively with the needs it satisfies' (1), fiscal policy cannot be overlooked. In this respect, Article 244 (i) of the Fourth Lomé Convention lays down that EDF support may be granted within the framework of reforms implemented or envisaged at the macro-economic level.

Central accounting system

5.25. The EDF's 'central' accounting system was not designed to make it possible to monitor import programmes. It cannot be used to monitor the 'currency' programmes beyond the payment of advances by the EDF into bank accounts opened in Europe by the recipient States, even though this is only the first stage in the process of implementing a project. In the case of the 'materials' programmes, the system only records the purchase, at the start of the programme, of the materials and foodstuffs that are to be sent overseas. As things stand, the accounting system of the EDF cannot, under any circumstances, be used by the Delegations to assess the way in which the counterpart funds are generated and used, whereas a task as sensitive as that presupposes rigorous organisation. It would thus be a good idea to learn from the experiments that were carried out in Kenya for the purpose of monitoring imports and those in Uganda for the purpose of monitoring the way in which the counterpart funds are used, so as to provide all the Delegations concerned with the accounting instruments they need.

5.26. There are three main inadequacies in the accounting and financial control of the programmes that were uncovered by the Court in its examination of sixth EDF transactions:

(a) failure to make systematic comparisons between entries made by the Delegations (where such exist) and those made by the central departments;

(b) failure to monitor the counterpart funds at central office level;

(c) absence of a centralized management supervision function at the Directorate-General for Development (DG VIII/C).

5.27. Thus, neither the technical departments, nor the country desks, nor the central financial departments consider themselves responsible for overall supervision of the import programmes. Furthermore, the role played by the department responsible for implementing measures for supporting structural adjustment (VIII-3) in monitoring their actual implementation is not clear from an appraisal of individual import programmes. Since, in the majority of cases, the programmes concerned are the ones where the financial aspects are dominant, the financial departments should have the responsibilty for overall supervision of the import programmes, and it would be up to them, in the context of overall supervision, to draw any potential risks to the attention of the Delegations. Once they had defined the nature and scope of audits relating not only to measures funded by the EDF, but also to the way in which the counterpart funds are established and used, they would then have to supervise the way in which the funds were implemented. As regards the sixth EDF, the Directorate for Finance at DG VIII was not able to carry out such tasks, which are, however, essential to the sound financial management of the programmes. It should however be noted that since March 1992 the central financial departments have begun to accept a degree of responsibility for monitoring the programmes, particularly with regard to the counterpart funds, and a working group has been set up to this end within the Directorate for Finance.

On-the-spot audits carried out by the central departments

5.28. Until the beginning of 1992, the central departments of the Commission carried out relatively few on-the-spot audits of the import programmes. In April 1989, the

(1) Article 188-1 of the Third Lomé Convention.

implementation procedures for several programmes were appraised, but the appraisals in question only dealt with the launching phase (e.g. in Kenya and Uganda) and were carried out too early for problems encountered in the later stages of the programmes to be uncovered.

5.29. It emerged from the appraisals that, as these were macro-economic programmes, on-the-spot audits were, for a long time, not considered to be a very appropriate monitoring method. In fact, as the specific measures are actually implemented by means of the counterpart funds, the central departments long excluded such measures from the scope of their interventions (see 5.12 and 5.13 above).

5.30. However, from 1992 onwards, in view of the problems encountered in certain countries when implementing the programmes and in order to make it possible to launch new measures under the seventh EDF, the Directorate for finance did carry out an on-the-spot audit of the import programmes and of the way in which the counterpart funds were being used (see 5.17 above). The audits in question were not, however, expressly provided for by the instructions issued in 1991 (see 5.17 above) and need to be more closely integrated into the Commission's policy for monitoring operations. In fact, initial reports indicate that the matters dealt with mainly concern financial implementation and that the question of the impact of the programmes has not been addressed.

Appraisal of the sixth EDF programmes

5.31. In addition to the provisions of the Third Lomé Convention (Article 224), the internal agreement concerning the financing of the sixth EDF requires the Commission to check:

(a) the conditions under which its measures are implemented by the ACP States;

(b) the conditions under which recipients benefit from the implementation of the measures in question;

(c) to what extent the objectives of financial and technical cooperation have been achieved.

5.32. As is the case for other areas of EDF activity, import programmes were appraised at two levels: that of individual projects and that of the instrument itself.

Individual appraisals of projects

5.33. As far as individual projects are concerned, ten of the 15 programmes examined during the Court's on-the-spot audit visits had been subject to external appraisals (Annex 8). In four cases, the appraisals in question had taken place within the framework of the sector-based study carried out by the appraisal unit (VIII/A/20) [1]. Four other programmes were covered by an audit which had been provided for in the financing agreement. Since the last two programmes were managed by an audit firm which was also providing technical assistance, the Delegations considered that they had been subjected to a continuous financial audit. Lastly, consideration was being given to the possibility of carrying out a technical and financial audit, during 1992, of the 'NCZ-fertilizer' programmes implemented in Zambia. The cost of such an audit would be charged to the programmes.

5.34. There were certain differences between the project appraisals carried out which were not attributable to any particular requirements or criteria. Whereas for certain projects only a financial audit was carried out (as in Ghana, Mozambique and the Central African Republic), for others a financial audit was to be accompanied by an assessment of whether the results achieved were in keeping with the objectives of the projects (as in Cameroon, Madagascar and Zambia).

5.35. There is considerable variation in the quality and usefulness of the audit reports, depending on the country in which they were carried out. In Mozambique, the audit was carried out too early (October 1988). It was chiefly concerned with those measures that had been implemented, but the recommendations it made were not put into effect. As a result, it served no useful purpose. Despite subsequent difficulties, no new audit was carried out in June 1991 at the time of the on-the-spot inspection. In Cameroon, the financial audit made it possible to assess accurately to what extent the project had been implemented, whereas the report drawn up by the same consultant in the Central African Republic was totally unsatisfactory. For Cameroon, the impact study was somewhat rudimentary and provided little indication of how useful the programme was to its target groups (farmers, traders and development organisations). In Madagascar the financial audit report submitted confined itself to listing the work carried out by the auditor and describing the procedures provided for in the financing agreement. Without wishing to pre-judge the quality of the work carried out, it may be said that the contents of the report are of limited use, with regard both to the management of imports and to the way the counterpart funds were used. The economic study is very general in nature and does not make it possible to assess the consequences of discarding those options which had initially been selected, such as support for the construction of subsidized housing. More generally, the report makes little contribution to an assessment of the reasons why the system for managing the counterpart funds does not work satisfactorily.

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(1) SOTESA study.

5.36. The programmes appraised within the framework of the sector-based study (in Benin, Kenya and Uganda) call for several observations.

5.37. In Benin, the financial audit remained fairly limited in scope. On the other hand, the consultant did attempt to assess the efficiency of the measures which had been implemented and the scope of their results by analysing separately the effects of imports and those of the counterpart funds. The conclusions of the audit are clear and its recommendations are specific, even where they are based on provisional or approximate data (as in the case of measures that are still being implemented).

5.38. In Kenya, the consultant believed it would be very difficult to attempt to gauge the macro-economic effects of the programme owing to a lack of reliable statistics and because sufficient time had not elapsed since the beginning of the programme. His appraisal was thus very general and rather lost track of the link with the EDF programme. Furthermore, the assessors made no appraisal either of the effects of the import programme on the ultimate consumers of inputs (farmers), or of the contribution of the programme to attaining the aims of the Agricultural Sector Adjustment Operation (ASAO). This being the case, it is not possible to establish how useful the programme really is as far as smallholders are concerned.

5.39. The financial audit touched only briefly on the way in which the programme was being monitored by bankers and auditors and made no recommendations to improve the administration and accounting of the programme.

5.40. In Uganda, the consultant believed from the outset that the macro-economic effects of the programme could not be gauged, firstly because no provision had been made to this effect by the EDF and secondly because of the fact that the necessary data were not available to the local authorities. Furthermore, questions of banking and audit management which were, after all, the main object of the appraisal, were inadequately covered by the financial audit.

5.41. Experience thus shows that bringing together the financial audit and the appraisal of the extent to which the objectives of the programme have been attained within the framework of one consultant's contract all too often results in one of these two aspects being given preference over another. Furthermore, the principal objective of financial audits is to establish whether the financial information available tallies with the actual progress made on the project and only secondarily to ascertain whether measures have been implemented in accordance with the provisions of the relevant laws, regulations and contracts. In this respect, they are one of the bases for assessing progress. It would thus be preferable for the financial audit to precede both the operational audit and the impact studies. In order to avoid the confusion which has arisen in connection with certain programmes of the sixth EDF, the new financing agreements should differentiate clearly between financial audits and appraisals of results (1). In both cases, detailed and standardized terms of reference should be drawn up in collaboration with the finance Directorate and the appraisal unit. Indeed, if the reports are to deal with the same matters, which is essential if there are to be comprehensive appraisals, not only should consistent methods be applied but attempts should also be made to ensure that the reports in question are drawn up in the same way. It should also be noted that a number of particularly large programmes (in Mozambique, for example) would require financial audits to be carried out at regular intervals.

Sectoral appraisals

5.42. The sectoral study commissioned by the appraisal department of DG VIII in 1989 (see paragraph 5.33 above) was supposed to lead, by means of a critical assessment of several programmes (2), to recommendations being made, both to the Community and to the ACP States, which would improve the results of the programmes of the seventh EDF. Dividing the study into successive stages enabled the Commission to reorientate work already under way in order to obtain results which would enable specific measures to be drawn up.

5.43. A positive feature of the consultant's final report is that it sheds light on some of the weaknesses in implementing the programmes of the seventh EDF, particularly as regards:

(a) preparing measures;

(b) quantifying objectives;

(c) the conditions agreed to by the ACP States;

(d) practical coordination with the Member States;

(e) certain choices made in several countries in the franc area;

(f) implementing the counterpart funds;

(1) Assessing the efficiency of the effects of those measures which have been implemented and the procedures followed when implementing them.

(2) Case studies of 30 programmes, supplemented by an on-the-spot study of 7 programmes in 5 ACP States.

(g) the resources to be allocated to managing the programmes, including technical assistance;

(h) the need for appraisals at the half-way stage.

5.44. The report is not, however, explicit enough in its assessment of the results that were actually achieved and it does not make clear which specific steps the departments of the Commission could take in order to improve their appraisals of the effects on the ACP States of the sizeable sums in question. Particular attention should be paid to:

(a) combining the criteria for selecting programmes with indicators which enable their results to be appraised;

(b) the allegation that the EDF programmes are too short, even though no consideration is given to the sums available or to the bilateral action taken by the Member States;

(c) the limited conclusions drawn and unclear recommendations made regarding the allocation and monitoring of the counterpart funds;

(d) the lack of comparison between the results obtained and the objectives established by the Council (see paragraph 2.9 above).

5.45. If the instructions given in 1991 by the central departments in connection with the import programmes of the seventh EDF are compared with the recommendations made in the summary report from SOTESA it is clear that the recommendations in question were, for the most part, ignored, even though a number of them were well-founded. The particularly confused way in which the document is structured and worded could be responsible for this lack of impact. It was not possible at the time for the appraisal department to correct the presentational faults of the report. The recent increase in staff numbers in the department in question should now make it possible to ensure that this does not recur.

6. CONCLUSION

6.1. The import programmes of the sixth EDF were supposed to aid the recovery of the manufacturing sectors of the ACP States and thus eliminate the needs they sought to satisfy. In practice, they very broadly coincided with the measures for economic recovery implemented in the recipient States under the aegis of the International Monetary Fund and the World Bank. Unlike the aid given by both of these organisations, the EDF aid was in the form of grants (2.2 and 2.3), even though the measures it funded were similar in nature. Although it is very difficult to assess the results achieved (5.43), the majority of donors continued to give aid of this kind. The seventh EDF makes special provision for granting 1500 Mio ECU of support for structural adjustments to be made between 1991 and 1995, to which approximately 10 % (470 Mio ECU) of programmable funds could be added.

6.2. The resources mobilized for the import programmes totalled 846 Mio ECU on 31 December 1991 (3.1). 90 % of them came from programmable funding for the sixth EDF and the other 10 % were additional funds which the Council had made available as part of the special programme adopted on 14 December 1987 for heavily indebted sub-Saharan countries (2.6). In 20 cases, the import programmes exceeded the 20 % ceiling recommended by the Council in November 1987 for funds earmarked for the country concerned (3.12).

6.3. The sale of imported products in the recipient country generates counterpart funds which are supposed to be used for development purposes (2.4). Nevertheless, neither the Third Lomé Convention nor the resulting texts regulate the management of the funds in question and a legal vacuum concerning an important aspect of EDF aid has thus been left unfilled (2.15 and 2.16). The result is a plethora of individual systems which do not lend themselves to overall supervision (4.34 to 4.36).

6.4. The central accounts of the EDF do not make it possible to monitor the import programmes immediately and the financial statements give no figures for the counterpart funds (5.25 and 5.26). Consequently, the end-of-year financial statements do not contain sufficient information about the status of the programmes (which account for 10 % of the Lomé III allocations) or about the counterpart funds to which they give rise (3.2 to 3.4).

6.5. As a rule, only the resources earmarked for the special programme (60 Mio ECU) could be used to finance general import programmes. In the final analysis, however, 18 programmes (99 Mio ECU) fulfilled such criteria. To the extent that the regulations were inadequate, it would have been preferable, rather than submitting general programmes in the form of sectoral programmes, to seek exemptions from the ACP-EEC Council in order to ensure that management was more open (2.7, 3.6 and 3.7).

6.6. Although the Council wanted particular attention to be paid to the social dimension of adjustment (2.9-d), direct measures in this area remained very limited (3.9 and 3.11). Such measures require thorough preparation, of a kind which the timetable for implementing the sixth EDF apparently did not allow.

6.7. Appropriations for the import programmes should be monitored more rigorously. At the end of 1991, 30,6 Mio ECU of funds allocated to the special programme remained unused (3.2). As regards programmes which had been completed, approximately 24 Mio ECU had not been used (3.13-a). Considerable difficulties encountered in the implementation of nine of the programmes (84 Mio ECU) had made it necessary to reorientate the programmes in question (3.13-d). No payments had yet been made against three programmes financed by special loans (10,85 Mio ECU) (3.13-c).

6.8. The import programmes implemented in the franc area countries (180 Mio ECU) are artificial in nature because, as a rule, the importers already have access to convertible currency. Going through importers makes it possible for the EDF to supply the recipient State with the resources it needs to finance its budgetary expenditure and which it cannot obtain directly (4.53 to 4.56). In this respect, such transactions would not appear to comply with the provisions of the Third Lomé Convention (3.16 and 3.17).

6.9. Although the Council recommended that import programmes should be integrated with measures already being implemented as part of the indicative programmes (2.9-b/c), in four of the ten countries where on-the-spot audits were carried out programmes had been implemented in areas outside the sectors covered by aid from the sixth EDF (4.3), since the sectors in question had not been able to take up appropriations quickly enough.

6.10. In five other cases, needs were assessed too hastily, which resulted in programmes being implemented with considerable delays (4.4 and 4.5).

6.11. Although, in accordance with the terms of the sixth EDF, the objectives of programmes should be precisely defined and quantified in the financing agreements, such agreements have all too often been vaguely worded without there being any quantification (4.7 and 4.8). These lacunae are in large part responsible for the difficulties encountered when assessing the eligibility of transactions and the effects of programmes. Furthermore, provisions other than those of the financing agreements have been implemented on several occasions (4.9), which has not only reduced the impact of the EDF Committee's opinions, but, for the ACP countries, has also reduced the value of commitments made as part of the financing agreements.

6.12. When programmes are being set up, closer attention should be paid to the limitations and risks resulting from shortages and institutional requirements. In this way, resources could be mobilized more effectively and audit procedures limited in accordance with the risks actually run (4.10 to 4.14).

6.13. With regard to imports of oil and natural gas (152 Mio ECU), advance payments amounting to 60 % of the value of the contracts were made to suppliers while, at the same time, the suppliers in question were guaranteed the price obtaining on the day the products were delivered. This practice, which is due to regulations being applied carelessly, should cease, since it is an unnecessary imposition on EDF funds (4.15).

6.14. In four of the countries visited, the implementation of the 'currency' programmes was being hampered by inappropriate competition rules which acted as an incentive for importers to divide up their transactions, thus resulting in a needless increase in the burden of administrative monitoring (4.16).

6.15. Implementing the financing agreements was to have been made easier by management agreements, by setting up monitoring committees and by engaging in dialogue with National Authorizing Officers. Whereas the agreements reached generally proved useful, frequent problems arose when it came to setting up or running management committees in cases where it would have been beneficial to do so. Similarly, the dialogue engaged in with the national authorizing authorities did not provide the desired solutions (5.11). In such cases, it would have been preferable to make greater use of the mobilization procedure for programmes on a sector-by-sector basis (4.20 and 4.21).

6.16. As the procedure for monitoring the particular conditions of the financing agreements has often been worded too generally, the procedure in question has, in practice, proved difficult to implement and its effectiveness cannot be established (4.22 to 4.29).

6.17. Various practices have been accepted by the Commission's Financial Controller in spite of the fact that they departed from the provisions of certain agreements and regulations. The practices in question concern increases in the ceilings of the financing agreements, the release of successive tranches for the various programmes and the granting of approval 'for the purpose of regularizing the situation' (4.30 to 4.33).

6.18. In countries with a weak currency, delays in the depositing of the counterpart funds are advantageous to the debtor and proportionately reduce the purchasing power of the funds ultimately made available. Moreover, such an advantage is likely to distort competition and to run counter to attempts to liberalize trade. In practice, although in some cases the EDF has been strict with certain importers, in others it has tolerated excessive delays (4.37 to 4.40).

6.19. In six countries, the combination of delays in depositing the counterpart funds with the omission of interest received in Europe and the non-use of funds available has led to losses of value in deposits in local currency which may be estimated to amount to tens of millions of ECUs (4.42 to 4.44 and 4.49).

6.20. In view of the size to which the counterpart funds have grown, the Community has progressively allowed them to be allocated in such a way as to meet the financial requirements of programmes for economic rehabilitation. The ensuing hesitation and delays in certain countries (e.g. Ghana, Madagascar, Mozambique, Uganda and Zambia) have reduced the expected impact of the funds (4.46 and 4.52).

6.21. In Ghana and in Zambia, untimely withdrawals from the counterpart funds by the authorities totalled approximately 11,2 Mio ECU (4.51). The reimbursements subsequently made were mostly mere accounting adjustments.

6.22. The Commission Delegations in the ACP States are usually poorly equipped to cope with the demands of preparing and monitoring the import programmes. Furthermore, they have often distanced themselves from the responsibilities usually conferred upon programme managers. In particular, they would need support in order to study the feasibility of measures, to identify the indicators suitable for assessing progress made and to lay the foundations of an audit system capable of indicating not only what has been imported but also the status of the counterpart funds (5.2 to 5.5 and 5.21).

6.23. The Delegations cannot oversee the majority of import programmes on a day-to-day basis. Providing technical assistance for National Authorizing Officers would seem to be a good way of ensuring that programmes are implemented, provided that their relationship with the Delegations is unambiguous and that their terms of reference leave no room for doubt about the scope of their responsibilities (4.14, 5.6 and 5.7).

6.24. The structure of the Commission's central departments remains poorly suited to effective monitoring of the import programmes (5.12 and 5.13), which partially explains why certain Delegations have not been encouraged to oversee their programmes as thoroughly as they might have done (5.8, 5.9 and 5.27).

6.25. The scope of the instructions given to the Delegations in 1990/1991 should be extended so that administrative audits may be more closely related to the risks which programmes run (5.19) and more details may be given about what sort of cooperation the Council intends to establish (2.9-e) between the Commission and the representations of the Member States in the ACP States (5.20).

6.26. The new instructions are proof that the Community's policy with regard to the counterpart funds has definitely been rationalized. However, the procedures for monitoring their implementation should be made more explicit, since it would be illusory to assume that 'reviews' and entries in the budget will on their own be enough to ensure that the counterpart funds will be used in priority sectors. In this regard, close cooperation between the various suppliers of funds would seem to be unavoidable (5.23).

6.27. Individual appraisals of programmes have been characterized by great variety as regards the approach, adopted the timetable used when implementing them, the type of consultant hired and the quality of reports submitted (5.34 to 5.40). Bringing together the financial audit and the assessment of results in one contract leads all too often to one aspect assuming greater importance than the other. Since the financial audit is a prerequisite for assessing results, steps should be taken to ensure that in future the financial audit and the assesment of results are carried out in the correct sequence (5.41).

6.28. The conclusions and recommendations of the sectoral appraisal completed in October 1990 were not reflected in the instructions given in 1990/1991. The lack of clarity in certain areas of the report does not provide sufficient explanation as to why all the proposals have been rejected (5.42 to 5.44).

6.29. The Court's examination of the accounts of the import programmes carried out between 1987 and 1992 and financed by appropriations from the sixth EDF was aimed at identifying the main questions of financial management that this new form of Community intervention raised, as compared with traditional operations of the 'project' type. Because the actual execution of the programmes was in most cases located downstream of the disbursement of EDF funds, the legal framework, the financial systems and the operational structures of the Lomé Convention and the Commission turned out to be not very well adapted to control of either the importation procedures or the procedures for creating and utilising the counterpart funds. Given the difficulties it was confronted by, the Commission reacted fairly swiftly and, with effect from 1991 (the Council resolution on the counterpart funds), the management of the import programmes was gradually strengthened. Many of the decisions taken since then should already have had perceptible effects on the first waves of the Lomé IV import programmes; for example, there is now more systematic use of technical assistance, more precise instructions are sent to the Delegations, the objectives and the conditions of the financing agreements are framed less ambiguously and a unit for monitoring the counterpart funds has been created. However, the application of these measures is uneven and some of them amount to nothing more than a step in the right direction. For these reasons, it is important that the Commission should continue with its efforts to discipline the programmes, in particular in the area of instructions and resources given to the Delegations and in that of the impact studies required by the new integrated approach to the management of the programmes.

This report was adopted by the Court of Auditors in Luxembourg at the Court meeting of 10 March 1994.

For the Court of Auditors
André J. MIDDELHOEK
President
in his absence:

Ole WARBERG
Member of the Court

Sixth EDF Import Programmes

ANNEX 1

Programmes examined on the spot by the EDF sector of the Court of Auditors

(Mio ECU)

Country and type of programme	On-the-spot audits	Initial commitment on 31.12.1991	'Materials' programmes			Currency programmes	
			Fertilizer	Oil and natural gas	other goods and materials	Sector-based	General
BENIN	December 1989						
SIP 027		18,40	—	—	8,00	10,40	—
SDP 024		3,70	—	3,70	—	—	—
SDP 025		8,90	—	7,30	—	—	1,60
CAMEROON	December 1990						
SIP 019	March 1992	15,00	15,00	—	—	—	—
GHANA	December 1989						
SIP 014		9,00	9,00	—	—	—	—
SDP 013		7,70	—	—	—	7,70	—
SDP 015		3,80	—	—	—	3,80	—
KENYA	November 1990						
SIP 026		35,00	—	—	35,00	—	—
SDP 039		7,00	—	—	7,00	—	—
MADAGASCAR	June 1992						
SDP 026		10,00	—	10,00	—	—	—
SDP 030		7,25	—	7,25	—	—	—
MALAWI	June 1991						
SIP 015		39,81	39,81	—	—	—	—
SDP 028		8,30	—	—	—	8,30	—
SDP 036		4,20	—	—	—	4,20	—
MOZAMBIQUE	June 1991						
SIP 019		32,84	—	—	32,84	—	—
SIP 099		7,17	—	—	7,17	—	—
SDP 049		30,00	—	—	25,00	—	5,00
CENTRAL AFRICAN REPUBLIC	December 1990						
SDP 012		4,70	—	4,70	—	—	—
SDP 011		2,30	—	2,30	—	—	—
UGANDA	December 1990						
SIP 007		17,25	—	—	—	17,25	—
SDP 025		10,00	—	—	—	—	10,00
SDP 029		5,00	—	—	—	—	5,00
ZAMBIA	October 1990						
SIP (5) 041		4,00	—	—	—	4,00	—
SIP (6) 010		3,20	—	—	—	3,20	—
SIP (5) 040		17,80	17,80	—	—	—	—
SIP (6) 009		15,00	—	—	8,00	7,00	—
TOTAL		**332,32**	**81,61**	**35,25**	**128,01**	**65,85**	**21,60**

Sixth EDF Import Programmes

ANNEX 2

Countries eligible under the special programme

(Council Decision of 14.12.1987)

Criteria for eligibility:

1. Poor country eligible for I.D.A. resources (1).
2. Country whose burden of debt seriously jeopardizes its import capabilities.
3. Country which has committed itself to a process of economic adjustment (2).

Countries concerned on 31.12.1991

(Mio ECU)

	Funding of 100 Mio ECU 6.127		Funding of 200 Mio ECU 6.126		TOTAL		
	Forecast	Implemented	Forecast	Implemented	Forecast	Implemented	Difference
Benin	3,7	3,70	7,3	8,90	11,00	12,60	+ 1,60
Burundi	4,0	4,00	8,0	8,00	12,00	12,00	—
Central African Republic	2,3	2,30	4,7	4,70	7,00	7,00	—
Comoros (1)	0,8	—	1,7	—	2,50	—	− 2,50
Gambia	1,0	1,00	2,0	2,00	3,00	3,00	—
Ghana	3,8	3,80	7,7	7,70	11,50	11,50	—
Guinea Bissau	2,0	2,00	4,0	4,00	6,00	6,00	—
Guinea Conakry	4,2	4,20	8,3	8,30	12,50	12,50	—
Equatorial Guinea (1)	0,5	0,50	1,0	1,00	1,50	1,50	—
Kenya	—	—	—	7,00	—	7,00	+ 7,00
Madagascar	5,0	7,25	10,0	10,00	15,00	17,25	+ 2,25
Malawi	4,2	4,20	8,3	8,30	12,50	12,50	—
Mali (1)	5,0	5,00	10,0	10,00	15,00	15,00	—
Mauritania	2,3	2,30	4,7	4,70	7,00	7,00	—
Mozambique	10,0	—	20,0	30,00	30,00	30,00	—
Niger	4,7	4,70	9,3	9,30	14,00	14,00	—
Rwanda	—	—	—	3,00	—	3,00	+ 3,00
São Tomé & Príncipe	0,3	0,30	0,7	0,70	1,00	1,00	—
Senegal	3,8	3,80	7,7	7,70	11,50	11,50	—
Sierra Leone (1)	2,7	—	5,3	—	8,00	—	− 8,00
Somalia (1)	5,3	—	10,7	—	16,00	—	− 16,00
Sudan (1)	8,7	7,50	17,3	7,50	26,00	15,00	− 11,00
Tanzania	8,2	8,20	16,3	16,30	24,50	24,50	—
Togo	2,3	2,30	4,7	4,70	7,00	7,00	—
Uganda	5,0	5,00	10,0	10,00	15,00	18,80	+ 3,80
Zaïre	6,5	6,50	13,0	13,00	19,50	19,50	—
Zambia (1)	3,7	3,70	7,3	7,30	11,00	11,00	—
TOTAL	**100,0**	**82,25**	**200,0**	**194,10**	**300,00**	**280,15**	**− 19,85**

(1) Did not have an IMF-World Bank programme for economic adjustment when the Financing Agreement was signed.

(1) International Development Agency (an agency of the World Bank).
(2) Countries which do not have a programme that has been officially approved by the IMF or the World Bank are eligible provided that their macroeconomic policy or their sector-based adjustments are considered valid and that the aid in question is directly linked to the adjustments.

Sixth EDF Import Programmes

ANNEX 3

Sector-by-sector breakdown of the 'materials' programmes on 31 December 1991

(Mio ECU)

Country	Oil and natural gas	Fertilizer	Rural inputs	Health and education	Agro-industry and industry	Miscellaneous		Total
						Amount	Sector	
1. ANGOLA	—	—	—	—	38,50	—	—	38,50
2. BENIN	12,60	—	—	—	8,00	—	—	20,60
3. CAPE-VERDE	—	—	—	—	—	4,–	construction	4,00
4. CAMEROON	—	15,—	—	—	—	—	—	15,00
5. CENTRAL AFRICAN REPUBLIC	7,00	—	—	—	—	—	—	7,00
6. IVORY COAST	41,00	—	—	—	—	—	—	41,00
7. ETHIOPIA	—	3,85	—	—	34,50	—	—	38,35
8. GAMBIA	5,00	—	—	—	—	—	—	5,00
9. GHANA	9,00	—	—	—	—	—	—	9,00
10. GUINEA BISSAU	—	3,40	—	—	—	—	—	3,40
11. EQUATORIAL GUINEA	1,50	—	—	—	—	—	—	1,50
12. GUYANA	—	—	—	—	—	18,00	infrastructure	18,00
13. JAMAICA	—	0,50	—	—	4,50	9,18	construction	14,18
14. MADAGASCAR	17,25	—	—	2,50	—	—	—	19,75
15. MALAWI	—	39,81	—	—	—	—	—	39,81
16. MALI	18,50	—	—	4,10	—	10,00	sugar	32,60
17. MAURITIUS	—	—	3,00	—	—	—	—	3,00
18. MOZAMBIQUE	—	—	65,00	—	—	—	—	65,00
19. NIGER	—	—	—	14,00	—	—	—	14,00
20. RWANDA	6,00	2,40	—	—	—	—	—	8,40
21. SÃO TOME E PRINCIPE	0,70	—	0,45	—	—	—	—	1,15
22. SENEGAL	7,70	—	—	—	—	—	—	7,70
23. SIERRA LEONE	—	—	6,10	—	—	—	—	6,10
24. SOMALIA	16,00	—	—	—	—	—	—	16,00
25. SUDAN	—	52,80	—	—	15,00	—	—	67,80
26. TANZANIA	—	—	28,33	—	3,48	6,25	*incentive goods*	38,06
27. CHAD	9,50	—	—	—	—	—	—	9,50
28. TOGO	—	10,00	—	—	—	—	—	10,00
29. ZAMBIA	—	17,80	—	—	15,00	—	—	32,80
TOTAL	151,75	145,56	102,88	20,60	118,98	47,43	—	587,20

Sixth EDF Import Programmes

ANNEX 4

Sector-by-sector breakdown of 'currency' programmes on 31 December 1991

(Mio ECU)

Country	Sector-based programmes							General programmes	Total for 'currency' programmes
	Social consequences of adjustment	Agricultural inputs and spare parts	Public and private industries	Agricultural commodities	Manufacturing sector inputs	Agro-industry	Sub-total for sector-based programmes		
1. BENIN	—	—	10,40	—	—	—	10,40	7,00	17,40
2. BURUNDI	—	—	—	—	—	—	—	12,00	12,00
3. ETHIOPIA	—	0,90	12,25	—	—	—	13,15	—	13,15
4. GHANA	2,50	—	—	—	—	—	2,50	9,00	11,50
5. GUINEA	—	—	—	—	—	—	—	12,50	12,50
6. GUINEA-BISSAU	—	—	—	—	—	—	—	6,00	6,00
7. KENYA	—	42,00	—	—	—	—	42,00	—	42,00
8. MALAWI	—	—	12,50	—	—	—	12,50	—	12,50
9. MAURITANIA	—	—	—	—	—	—	—	7,00	7,00
10. MOZAMBIQUE	—	—	—	5,00	—	—	5,00	—	5,00
11. NIGERIA	—	10,00	—	—	—	—	10,00	—	10,00
12. PAPUA-NEW-GUINEA	—	—	—	5,50	—	—	5,50	—	5,50
13. RWANDA	—	—	—	—	—	—	—	6,00	6,00
14. SENEGAL	—	—	—	—	—	—	—	3,80	3,80
15. SOMALIA	—	—	—	—	15,00	—	15,00	—	15,00
16. SURINAM	—	8,50	—	—	—	—	8,50	—	8,50
17. TANZANIA	—	—	—	—	—	24,50	24,50	—	24,50
18. TRINIDAD & TOBAGO	—	—	—	—	—	12,00	12,00	—	12,00
19. UGANDA	—	—	—	—	17,25	—	17,25	18,75	36,00
20. ZAIRE	—	—	—	—	—	30,00	30,00	—	30,00
21. ZAMBIA	—	10,90	—	—	—	—	10,90	16,80	27,70
TOTAL	2,50	72,30	35,15	10,50	32,25	66,50	219,20	98,85	318,05

Sixth EDF Import Programmes

ANNEX 5-1

Procedure for determining type of import programme

Third Lomé Convention Article 218

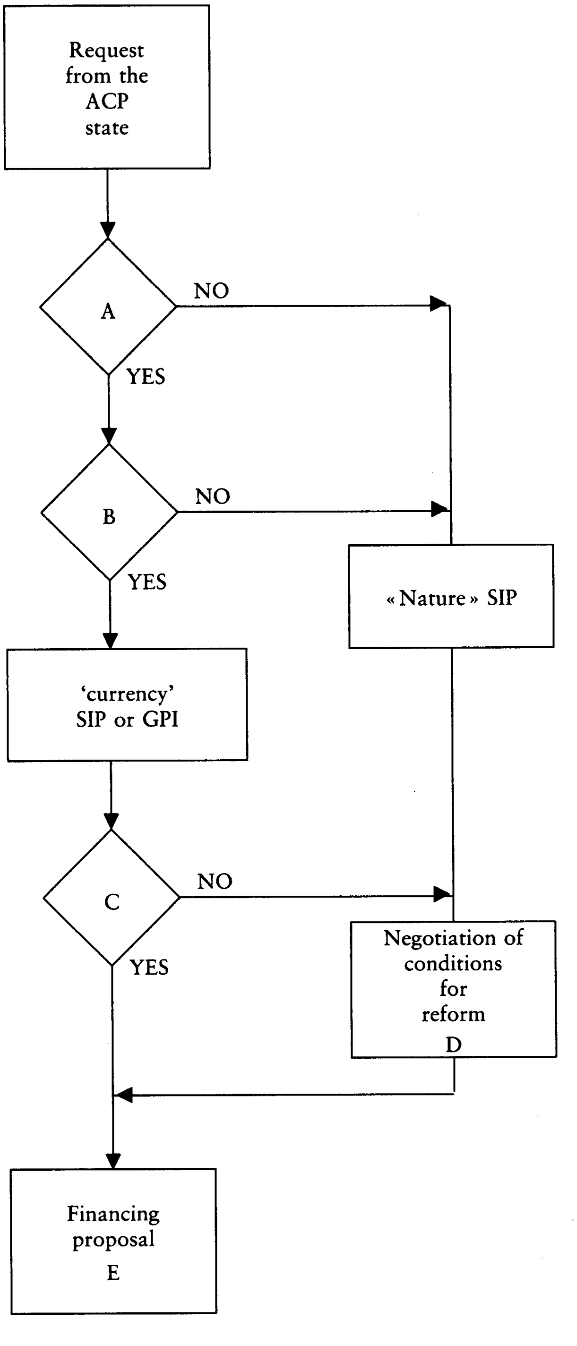
A = Is the State's foreign exchange policy realistic?

B = Is the foreign exchange allocation system liberal enough? (administrative interference is limited)

C = Are commercial and administrative practices sound in the sector concerned?

D = The import programmes should assist States which have embarked upon structural reform of their economies

E = Article 220 of the Third Lomé Convention

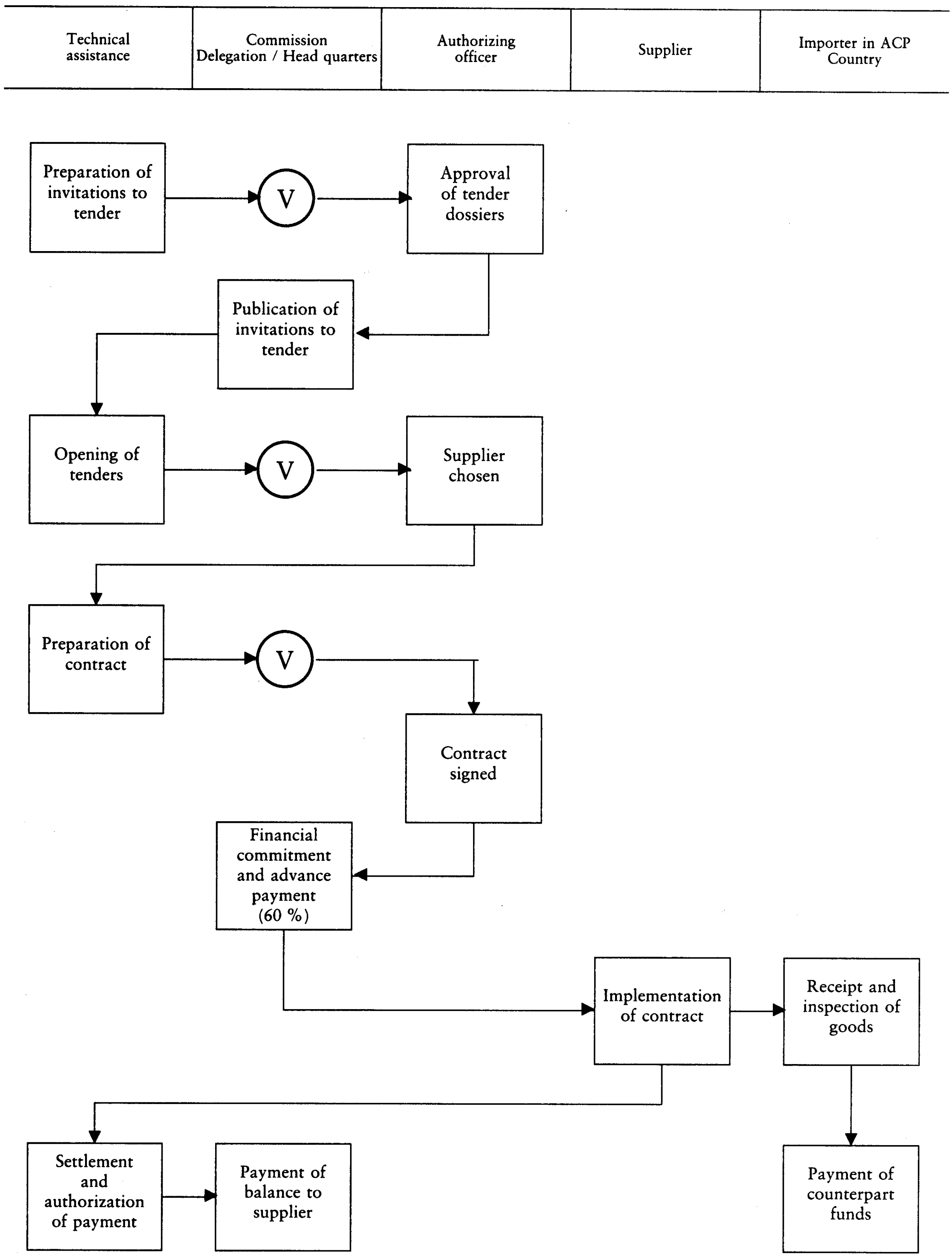


Source: Memorandum on SIPs and GPIs (14.02.1989)

Sixth EDF Import Programmes

ANNEX 5-2

Stages of a materials SIP



Sixth EDF Import Programmes

ANNEX 6-1

The place of import programmes in the indicative programmes

(Mio ECU)

Country	Value of indicative programme	Total for import programmes	% of indicative programme
1. ANTIGUA-BARBUDA	4,5	—	—
2. ANGOLA	102,0	38,5	37,75
3. BARBADOS	5,0	—	—
4. BELIZE	8,0	—	—
5. BENIN	89,5	38,0	42,46
6. BURKINA FASO	107,5	—	—
7. BAHAMAS	4,0	—	—
8. BOTSWANA	30,5	—	—
9. BURUNDI	108,0	12,1	11,20
10. CENT. AFRICAN REPUBLIC	69,5	7,0	10,07
11. CHAD	89,0	9,5	10,67
12. CAMEROON	101,0	15,0	14,85
13. CONGO	48,0	—	—
14. COMOROS	20,5	—	—
15. CAPE VERDE	24,5	4,0	16,33
16. DJIBOUTI	16,0	—	—
17. DOMINICA	6,0	—	—
18. EQUATORIAL GUINEA	12,0	1,5	12,50
19. ETHIOPIA	210,0	51,5	24,52
20. FIJI	20,0	—	—
21. GABON	26,0	—	—
22. GHANA	97,5	20,5	21,03
23. GAMBIA	21,0	5,0	23,81
24. GRENADA	5,5	—	—
25. GUYANA	22,1	18,0	81,45
26. GUINEA-BISSAU	37,5	9,5	25,33
27. GUINEA (Conakry)	114,0	12,5	10,96
28. IVORY COAST	82,0	41,0	50,00
29. JAMAICA	40,2	14,2	35,32
30. KENYA	135,0	42,0	31,11
31. KIRIBATI	6,5	—	—
32. LIBERIA	45,0	—	—
33. LESOTHO	41,5	—	—
34. MADAGASCAR	125,0	19,7	15,76
35. MALAWI	114,5	52,3	45,68
36. MAURITIUS	31,0	3,0	9,68
37. MAURITANIA	61,5	7,0	11,38
38. MALI	137,0	32,6	23,80
39. MOZAMBIQUE	160,0	70,0	43,75
40. NIGER	122,0	14,0	11,48
41. PAPUA-NEW-GUINEA	34,5	5,5	15,94
42. RWANDA	110,0	14,4	13,09
43. ST CHRISTOPHER & NEVIS	3,5	—	—
44. SENEGAL	108,5	11,5	10,60
45. SEYCHELLES	6,2	—	—
46. SIERRA LEONE	65,5	6,1	9,31
47. ST LUCIA	6,0	—	—
48. SOMALIA	117,0	31,0	26,50
49. SOLOMON	17,0	—	—
50. SÃO TOME AND PRINCIPE	6,0	1,2	20,00
51. SUDAN (A)	145,0	67,8	46,76
52. SURINAM	24,0	8,5	35,42
53. ST-VINCENT & GRENADINES	7,0	—	—
54. SWAZILAND	25,5	—	—
55. TANZANIA	176,5	62,6	35,46
56. TONGA	6,5	—	—
57. TOGO	61,5	10,0	16,26
58. TRINIDAD AND TOBAGO	15,0	12,0	80,0
59. TUVALU	2,0	—	—
60. UGANDA	133,0	36,0	27,07
61. NIGERIA	213,5	10,0	4,68
62. VANUATU	6,7	—	—
63. WESTERN SAMOA	9,0	—	—
64. ZAMBIA (A)	92,0	60,5	65,76
65. ZIMBABWE	77,0	—	—
66. ZAIRE (A)	166,5	30,0	18,01
TOTAL	4 135,2	905,5 (B)	21,89

(A) Including IP s/ 5th EDF.
(B) Except for 3 Mio ECU allocated to general projects.

Sixth EDF Import Programmes *ANNEX 6-2*

Import programmes representing more than 20% of the total of the indicative programme for the recipient country

(Mio ECU)

Country	Value of Indicative Programme	Total for import programmes	%
1. GUYANA	22,1	18,0	81
2. TRINIDAD & TOBAGO	15,0	12,0	80
3. ZAMBIA (a)	92,0	60,5	66
4. IVORY COAST	82,00	41,0	50
5. SUDAN (a)	145,0	67,8	47
6. MALAWI	114,5	52,3	46
7. MOZAMBIQUE	160,0	70,0	44
8. BENIN	89,5	38,0	42
9. ANGOLA	102,0	38,5	38
10. SURINAM	24,0	8,5	35
11. JAMAICA	40,2	14,2	35
12. TANZANIA	176,5	57,4	33
13. KENYA	135,0	42,0	31
14. UGANDA	133,0	36,0	27
15. SOMALIA	117,0	31,0	27
16. GUINEA BISSAU	37,5	9,5	25
17. ETHIOPIA	210,0	51,5	25
18. GAMBIA	21,0	5,0	24
19. MALI	137,0	32,6	24
20. GHANA	97,5	20,5	21

(a) Includes transactions financed out of resources from the fifth EDF.

Sixth EDF Import Programmes

ANNEX 7

Appropriations to be released for completed programmes

(Mio ECU)

Country	No. of programme	Balance to be released	Date of latest payment
ANGOLA	015	0,14	
BENIN	027	0,23	
BURUNDI	024	0,60	
CAMEROON	019	3,15	
CAPRE VERDE ISLANDS	005	0,12	
CENTRAL AFRICAN REPUBLIC	012	0,87	
GHANA	014	1,04	
	013	0,07	
GUINEA-BISSAU	007	0,90	
EQUATORIAL GUINEA	010	0,10	
GUYANA	006	0,38	
JAMAICA	012	3,67	
MADAGASCAR	030	0,21	
MALI	008	3,54	
NIGER	032	0,04	
	035	0,24	
SIERRA LEONE	013	1,55	
SOMALIA	020	0,09	
SUDAN	032	0,89	
	061	0,27	
	053	2,55	
SURINAM	014	1,01	
CHAD	021	0,04	
TOGO	014	0,14	
UGANDA	007	0,08	
ZAIRE	044	0,73	
ZAMBIA	030	1,74	
	032	0,12	
	009	0,01	
TOTAL		**24,21**	

Sixth EDF Import Programmes

ANNEX 8

External assessment of programmes audited on the spot bt the Court of Auditors

Country	Programme	Amount Mio ECU	Specific appraisal		Sector-based appraisal
			Financial audit	Impact study	
BENIN	Oil	11,00	—	—	SEP 90 (SOTESA)
	Currency	18,40	—	—	SEP 90 (SOTESA)
CAMEROON	Fertilizer	15,00	DEC 91 (PW)	DEC 91 (PW)	
GHANA	Fertilizer	9,00	(C&L)	—	—
	Currency	11,50	—	—	—
KENYA	Currency	42,00	—	—	SEP 90 (SOTESA)
MADAGASCAR	Oil	17,25	JUL 91 (Evalude)	JUL 91 (Evalude)	—
MALAWI	Fertilizer	39,81	—	—	—
	Currency	13,50	—	—	—
MOZAMBIQUE	Various inputs	70,00	OCT 88 (C&L)	—	—
CENTRAL AFRICAN REPUBLIC	Oil	7,00	AVR 91 (PW)	—	—
UGANDA	Currency	32,50	JUN 91 (C&L)	—	SEP 90 (SOTESA)
ZAMBIA	Currency	14,20	periodic (PW)	—	—
	Fertilizer	17,80	—	—	—
	Spare parts	8,00	—	—	—
TOTAL		326,96			

Sixth EDF Import Programmes

ANNEX 9

SIP and SDP — Status on 31.12.1991

(Mio ECU)

Country	OLAS audit No.	Initial commitment	Country total	Secondary commitment	Country total	Payments	Country total
ANGOLA	ACP-ANG-205-015	24,706	38,500	24,624	38,411	24,393	36,588
	ACP-ANG-205-115	13,794		13,787		12,195	
BENIN	ACP-BEN-252-027	18,400	38,000	18,289	30,889	17,546	29,837
	ACP-BEN-252-025	8,900		8,900		8,591	
	ACP-BEN-250-024	3,700		3,700		3,700	
	ACP-BEN-203-050	7,000		0,000		0,000	
BURUNDI	ACP-BU-251-024	8,000	12,080	7,913	11,913	7,912	11,912
	ACP-BU-250-023	4,000		4,000		4,000	
	ACP-BU-214-047	0,080		0,000		0,000	
CAPE-VERDE	ACP-CV-203-005	4,000	4,000	3,998	3,998	3,387	3,387
CAMEROON	ACP-CM-203-019	15,000	15,000	11,878	11,878	11,850	11,850
CENT. AFR. REPUBLIC	ACP-CA-251-012	4,700	7,000	4,587	6,887	3,866	6,166
	ACP-CA-250-011	2,300		2,300		2,300	
IVORY COAST	ACP-IVC-203-036	41,000	41,000	40,958	40,958	38,474	38,474
ETHIOPIA	ACP-ET-203-029	10,500	51,500	10,481	40,956	9,746	33,762
	ACP-ET-203-041	24,000		19,471		18,153	
	ACP-ET-203-045	13,150		11,004		5,863	
	ACP-ET-425-046	3,850		0,000		0,000	
GAMBIA	ACP-GA-252-014	1,931	4,961	1,931	4,961	1,931	4,941
	ACP-GA-251-015	2,000		2,000		2,000	
	ACP-GA-250-022	1,000		1,000		1,000	
	ACP-GA-0214-035	0,030		0,030		0,010	
GHANA	ACP-GH-252-014	9,000	20,500	7,995	19,289	7,964	18,456
	ACP-GH-251-013	7,700		7,494		6,692	
	ACP-GH-250-015	3,800		3,800		3,800	
GUINEA	ACP-GUI-251-014	8,300	12,500	8,300	12,500	8,300	12,500
	ACP-GUI-250-017	4,200		4,200		4,200	
GUINEA-BISSAU	ACP-GUB-252-007	3,400	9,523	3,400	9,510	2,500	8,605
	ACP-GUB-214-012	0,123		0,110		0,105	
	ACP-GUB-251-013	4,000		4,000		4,000	
	ACP-GUB-250-014	2,000		2,000		2,000	
EQUATORIAL GUINEA	ACP-EG-251-010	1,000	1,500	0,904	1,329	0,904	1,329
	ACP-EG-250-009	0,500		0,425		0,425	
GUYANA	ACP-GUA-303-006	17,250	17,985	16,874	17,609	15,413	16,086
	ACP-GUA-214-002	0,245		0,245		0,243	
	ACP-GUA-213-013	0,490		0,490		0,430	
JAMAICA	ACP-JM-203-012	14,180	14,180	13,032	13,032	10,032	10,032
	ACP-JM-425-013	0,000		0,000		0,000	
KENYA	ACP-KE-203-026	35,000	42,000	35,000	42,000	35,000	42,000
	ACP-KE-251-039	7,000		7,000		7,000	
MADAGASCAR	ACP-MAG-203-027	2,500	19,749	0,000	17,055	0,000	17,039
	ACP-MAG-251-026	9,999		9,999		9,999	
	ACP-MAG-250-030	7,250		7,056		7,040	
MALAWI	ACP-MAI-252-015	39,807	52,307	39,699	52,199	33,121	45,621
	ACP-MAI-251-028	8,300		8,300		8,300	
	ACP-MAI-250-036	4,200		4,200		4,200	
MALI	ACP-MLI-252-018	10,000	32,600	10,000	29,061	10,000	29,058
	ACP-MLI-203-08	4,100		0,561		0,558	
	ACP-MLI-251-019	13,500		13,500		13,500	
	ACP-MLI-250-023	5,000		5,000		5,000	
MAURITANIA	ACP-MAU-251-016	4,700	7,000	4,700	7,000	4,700	7,000
	ACP-MAU-250-015	2,300		2,300		2,300	
MAURITIUS	ACP-MAS-203-024	2,000	3,000	1,880	2,373	0,221	0,221
	ACP-MAS-425-025	1,000		0,493		0,000	

Sixth EDF Import Programmes *ANNEX 9* (continued)

SIP and SDP — Status on 31.12.1991

(Mio ECU)

Country	OLAS audit No.	Initial commitment	Country total	Secondary commitment	Country total	Payments	Country total
MOZAMBIQUE	ACP-MOZ-252-019	32,835	70,000	32,337	58,072	31,710	49,131
	ACP-MOZ-252-099	7,165		5,164		3,071	
	ACP-MOZ-251-049	30,000		20,571		14,350	
NIGER	ACP-NIR-251-032	8,391	14,000	8,159	13,724	7,944	13,296
	ACP-NIR-251-099	0,909		0,890		0,888	
	ACP-NIR-250-035	4,700		4,675		4,464	
NIGERIA	ACP-UNI-425-039	10,000	10,000	10,000	10,000	9,679	9,679
UGANDA	ACP-UG-252-007	17,250	36,000	17,250	32,250	17,242	32,242
	ACP-UG-251-025	10,000		10,000		10,000	
	ACP-UG-250-029	5,000		5,000		5,000	
	ACP-UG-203-059	3,750		0,000		0,000	
PAPUA-NEW-GUINEA	ACP-PNG-203-036	5,500	5,500	5,500	5,500	5,500	5,500
RWANDA	ACP-RW-203-028	9,000	14,400	3,000	14,842	0,000	0,302
	ACP-RW-251-029	3,000		2,500		0,000	
	ACP-RW-205-003	2,400		9,342		0,302	
SÃO-TOME	ACP-STP-252-013	0,150	1,150	0,150	1,139	0,150	1,067
	ACP-STP-251-011	0,700		0,698		0,698	
	ACP-STP-250-014	0,300		0,291		0,219	
SENEGAL	ACP-SE-251-016	7,700	11,500	7,700	11,500	7,690	11,490
	ACP-SE-250-018	3,800		3,800		3,800	
SIERRA-LEONE	ACP-SL-203-013	6,000	6,100	2,906	2,997	1,458	2,298
	ACP-SL-214-005	0,100		0,091		0,840	
SOMALIA	ACP-SO-252-020	15,000	31,000	14,977	29,419	14,819	29,022
	ACP-SO-203-025	16,000		14,442		14,203	
SUDAN	ACP-SU-205-032	17,800	67,771	16,800	62,972	16,800	59,628
	ACP-SU-251-061	7,500		6,248		3,353	
	ACP-SU-250-053	7,500		4,953		4,504	
	ACP-SU-203-14(*)	15,971		15,971		15,971	
	ACP-SU-203-25(*)	19,000		19,000		19,000	
SURINAM	ACP-SUR-203-014	8,500	8,500	7,351	7,351	6,371	6,371
TANZANIA	ACP-TA-251-021	16,300	62,562	15,672	61,929	15,150	59,449
	ACP-TA-250-024	8,200		8,200		7,975	
	ACP-TA-203-04	12,532		12,532		11,558	
	ACP-TA-203-05	11,000		11,000		10,948	
	ACP-TA-203-07	8,280		8,280		7,738	
	ACP-TA-203-019	6,250		6,245		6,080	
CHAD	ACP-CD-203-021	9,500	9,500	9,473	9,473	9,464	9,464
TOGO	ACP-TO-252-016	3,000	10,000	2,994	9,855	2,893	9,712
	ACP-TO-251-015	4,700		4,700		4,700	
	ACP-TO-250-014	2,300		2,161		2,119	
TRINIDAD & TOBAGO	ACP-TR-203-004	6,000	12,000	6,000	6,000	6,000	6,000
	ACP-TR-425-003	6,000		0,000		0,000	
ZAIRE	ACP-ZA-252-050(*)	6,000	30,000	6,000	29,978	6,000	29,272
	ACP-ZR-252-042	4,500		4,500		4,500	
	ACP-ZR-251-044	13,000		12,978		12,272	
	ACP-ZR-250-043	6,500		6,500		6,500	
ZAMBIA	ACP-ZA-252-041(*)	4,000	60,498	4,000	56,203	4,000	54,016
	ACP-ZA-252-040(*)	17,800		17,731		17,509	
	ACP-ZA-252-010	3,198		3,198		3,198	
	ACP-ZA-252-030	9,500		5,402		3,452	
	ACP-ZA-251-031	7,300		7,300		7,300	
	ACP-ZA-250-032	3,700		3,572		3,569	
	ACP-ZA-252-009	15,000		15,000		14,988	
ALL COUNTRIES	EDF-GPR-701-004	3,000	3,000	1,000	1,000	0,000	0,000
TOTAL		**908,366**	**908,366**	**838,012**	**838,012**	**772,803**	**772,803**

(*) 5th EDF.

Sixth EDF Import Programmes

ANNEX 10

Situation at 31.12.1993

(Mio ECU)

Country	OLAS accounting No	Primary commitment	Total country	Secondary commitment	Total country	Payments	Total country
ANGOLA	ACP-ANG-205-015	24,706	38,500	24,571	38,274	24,524	38,166
	ACP-ANG-205-115	13,794		13,703		13,642	
BENIN	ACP-BEN-252-027	18,400	37,691	18,174	37,465	18,160	37,451
	ACP-BEN-252-025	8,591		8,591		8,591	
	ACP-BEN-250-024	3,700		3,700		3,700	
	ACP-BEN-203-050	7,000		7,000		7,000	
BURUNDI	ACP-BU-251-024	8,000	12,080	7,940	12,690	7,931	12,651
	ACP-BU-250-023	4,000		4,000		4,000	
	ACP-BU-214-047	0,080		0,750		0,720	
CAPE VERDE	ACP-CV-203-005	4,000	4,000	3,884	3,884	3,871	3,871
CAMEROON	ACP-CM-203-019	11,950	11,950	11,908	11,908	11,876	11,876
CENTRAL AFRICAN REPUBLIC	ACP-CA-251-012	4,700	7,000	3,873	6,173	3,873	6,173
	ACP-CA-250-011	2,300		2,300		2,300	
IVORY COAST	ACP-IVC-203-036	41,000	41,000	41,000	41,000	40,990	40,990
ETHIOPIA	ACP-ET-203-029	10,500	51,500	10,376	43,619	10,291	42,817
	ACP-ET-203-041	24,000		21,461		20,750	
	ACP-ET-203-045	13,150		11,782		11,776	
	ACP-ET-425-046	3,850		0,000		0,000	
GAMBIA	ACP-GA-252-014	1,931	4,979	1,931	4,979	1,931	4,963
	ACP-GA-251-015	2,000		2,000		2,000	
	ACP-GA-250-022	1,000		1,000		1,000	
	ACP-GA-0214-035	0,048		0,048		0,032	
GHANA	ACP-GH-252-014	9,000	20,500	7,964	19,395	7,964	19,233
	ACP-GH-251-013	7,700		7,631		7,469	
	ACP-GH-250-015	3,800		3,800		3,800	
GUINEA	ACP-GUI-251-014	8,300	12,500	8,300	12,500	8,300	12,500
	ACP-GUI-250-017	4,200		4,200		4,200	
GUINEA-BISSAU	ACP-GUB-252-007	3,400	9,505	3,400	9,505	2,500	8,605
	ACP-GUB-214-012	0,105		0,105		0,105	
	ACP-GUB-251-013	4,000		4,000		4,000	
	ACP-GUB-250-014	2,000		2,000		2,000	
EQUATORIAL GUINEA	ACP-EG-251-010	1,000	1,500	0,904	1,329	0,904	1,329
	ACP-EG-250-009	0,500		0,425		0,425	
GUYANA	ACP-GUA-303-006	17,250	17,985	17,250	17,985	16,531	17,204
	ACP-GUA-214-002	0,245		0,245		0,243	
	ACP-GUA-213-013	0,490		0,490		0,430	
JAMAICA	ACP-JM-203-012	14,180	14,180	13,572	13,572	10,513	10,513
	ACP-JM-425-013	0,000		0,000		0,000	
KENYA	ACP-KE-203-026	35,269	42,269	35,269	42,269	35,259	42,259
	ACP-KE-251-039	7,000		7,000		7,000	
MADAGASCAR	ACP-MAG-203-027	2,500	19,553	0,367	17,420	0,360	17,413
	ACP-MAG-251-026	9,999		9,999		9,999	
	ACP-MAG-250-030	7,054		7,054		7,054	
MALAWI	ACP-MAI-252-015	39,807	52,307	37,162	49,662	36,248	48,748
	ACP-MAI-251-028	8,300		8,300		8,300	
	ACP-MAI-250-036	4,200		4,200		4,200	
MALI	ACP-MLI-252-018	10,000	32,600	10,000	31,157	10,000	30,932
	ACP-MLI-203-08	4,100		2,657		2,432	
	ACP-MLI-251-019	13,500		13,500		13,500	
	ACP-MLI-250-023	5,000		5,000		5,000	
MAURITANIA	ACP-MAU-251-016	4,700	7,000	4,700	7,000	4,700	7,000
	ACP-MAU-250-015	2,300		2,300		2,300	
MAURITIUS	ACP-MAS-203-024	2,000	3,000	1,962	2,851	1,910	2,539
	ACP-MAS-425-025	1,000		0,889		0,629	
MOZAMBIQUE	ACP-MOZ-252-019	32,201	59,497	32,196	59,222	31,779	57,994
	ACP-MOZ-252-099	5,149		5,144		4,912	
	ACP-MOZ-214-014	0,038		0,038		0,038	
	ACP-MOZ-251-049	21,927		21,667		21,230	
	ACP-MOZ-213-100	0,182		0,177		0,035	

Sixth EDF Import Programmes *ANNEX 10* (continued)

Situation at 31.12.1993

(Mio ECU)

Country	OLAS accounting No	Primary commitment	Total country	Secondary commitment	Total country	Payments	Total country
NIGER	ACP-NIR-251-032	8,391	14,000	8,350	13,940	8,011	13,506
	ACP-NIR-251-099	0,909		0,890		0,888	
	ACP-NIR-250-035	4,700		4,700		4,607	
NIGERIA	ACP-UNI-425-039	10,000	10,000	10,000	10,000	10,000	10,000
PAPUA-NEW-GUINEA	ACP-PNG-203-036	5,500	5,500	5,500	5,500	5,500	5,500
RWANDA	ACP-RW-203-028	9,000	14,400	9,000	21,409	9,009	20,751
	ACP-RW-251-029	3,000		2,969		2,652	
	ACP-RW-205-003	2,400		9,440		9,090	
SAO-TOME	ACP-STP-252-013	0,150	1,170	0,150	1,159	0,150	1,156
	ACP-STP-251-011	0,700		0,698		0,698	
	ACP-STP-250-014	0,320		0,311		0,308	
SENEGAL	ACP-SE-251-016	7,700	11,500	7,700	11,500	7,690	11,490
	ACP-SE-250-018	3,800		3,800		3,800	
SIERRA-LEONE	ACP-SL-203-013	6,000	6,100	4,452	4,536	4,001	4,841
	ACP-SL-214-005	0,100		0,084		0,840	
SOMALIA	ACP-SO-252-020	14,972	29,333	14,972	29,333	14,883	29,222
	ACP-SO-203-025	14,361		14,361		14,339	
SUDAN	ACP-SU-205-032	17,800	68,521	17,199	65,352	16,913	64,728
	ACP-SU-251-061	8,250		8,161		7,981	
	ACP-SU-250-053	7,500		5,021		4,863	
	ACP-SU-203-14	15,971		15,971		15,971	
	ACP-SU-203-25	19,000		19,000		19,000	
SURINAM	ACP-SUR-203-014	8,500	8,500	7,411	7,411	7,242	7,242
TANZANIA	ACP-TA-251-021	16,300	64,494	16,139	64,328	15,594	62,547
	ACP-TA-250-024	8,200		8,200		7,975	
	ACP-TA-203-04	14,999		14,999		14,880	
	ACP-TA-203-05	10,999		10,999		10,280	
	ACP-TA-203-07	7,746		7,746		7,738	
	ACP-TA-203-019	6,250		6,245		6,080	
CHAD	ACP-CD-203-021	9,500	9,500	9,473	9,473	9,464	9,464
TOGO	ACP-TO-252-016	3,000	10,000	2,994	9,855	2,893	9,723
	ACP-TO-251-015	4,700		4,700		4,700	
	ACP-TO-250-014	2,300		2,161		2,130	
TRINIDAD & TOBAGO	ACP-TR-203-004	0,000	0,000	0,000	0,000	6,000	6,000
	ACP-TR-425-003	0,000		0,000		0,000	
UGANDA	ACP-UG-252-007	17,250	38,113	17,242	38,105	17,242	38,105
	ACP-UG-251-025	11,500		11,500		11,500	
	ACP-UG-250-029	5,613		5,613		5,613	
	ACP-UG-203-059	3,750		3,750		3,750	
ZAIRE	ACP-ZA-252-050	6,000	30,000	6,000	29,978	6,000	29,840
	ACP-ZR-252-042	4,500		4,500		4,500	
	ACP-ZR-251-044	13,000		12,978		12,840	
	ACP-ZR-250-043	6,500		6,500		6,500	
ZAMBIA	ACP-ZA-252-041	4,000	60,498	4,000	58,559	4,000	57,767
	ACP-ZA-252-040	17,800		17,731		17,509	
	ACP-ZA-252-010	3,198		3,198		3,198	
	ACP-ZA-252-030	9,500		7,752		7,197	
	ACP-ZA-251-031	7,300		7,300		7,300	
	ACP-ZA-250-032	3,700		3,578		3,575	
	ACP-ZA-252-009	15,000		15,000		14,988	
ALL COUNTRIES	EDF-GPR-701-004	3,000	6,000	3,000	4,400	2,037	2,037
	EDF-GPR-701-005	3,000		1,400		0,000	
TOTAL		**888,725**	**888,725**	**868,697**	**868,697**	**859,146**	**859,146**

THE COMMISSION'S REPLY

INTRODUCTION

The Commission has carefully noted the Court's comments and will try to take account of them in future policy. The Court's comments should, however, be placed in the political and economic context of the ACP countries, which does not always lend itself to the rigorous approach the Commission would like to impose, and where each individual country is a special case.

1. GENERAL REMARKS

(a) The weaknesses identified at the time (i.e. inadequate instructions to delegations and the need to improve the management of import programmes, need for a thorough study of the main obstacles to a programme's implementation in the preparation phase, and simplification of the management of counterpart funds) have since been rectified.

The fact is that the Lomé III import programmes provided the Commission with a necessary trial run prior to the formal inclusion of structural adjustment policies in Lomé IV.

On the basis of what it learnt from this experience, the Commission set in motion and developed a number of measures to improve the running of programmes both internally — training, information and even instructions — and externally — closer relations with the IMF and World Bank and active participation in a number of major initiatives (including the Special Programme of Assistance for Africa — SPA).

(b) As a result of this learning process and the lessons drawn from it the Commission has anticipated a good many of the report's recommendations. The flexibility and forward-looking nature of the Commission's approach during the reference period are reflected in the fourth Convention.

(c) One of the issues on which the Court focuses is that of counterpart funds. It should be pointed out here that undertakings made under the SPA and pursuant to Council resolutions mean that counterpart funds are considered only in the context of checks on the effectiveness and equity of public expenditure. This moves the emphasis from the final users to development stabilization/recovery in a consistent framework of macroeconomic objectives decided at public expenditure reviews conducted by the World Bank (ever more frequently in cooperation with the Commission). Economic performance is then assessed by economists while finances are checked by auditors.

2. GENERAL FRAMEWORK

Legal background to import programmes under the sixth EDF

Joint management of counterpart funds

2.16. The policy framework for counterpart funds was strengthened by the Council Resolution of May 1991 on the use of counterpart funds generated by various forms of development aid and various instructions relating to it.

3. SITUATION OF IMPORT PROGRAMMES

Overall situation

Sixth EDF resources allocated to import programmes

3.2. The subdivision in three different groups relates to the origin of the different funds. The Special Programme was launched at a moment where the general structure of the accounts had been fixed already.

3.3 – 3.4. While it is true that the balance sheets and accounts at 31 December 1991 did not provide any information on counterpart funds, the information was available to the Commission. Information on counterpart funds was given in the annual balance sheets on financial cooperation, published in early January 1993.

However, it is important to note that counterpart funds are not EDF funds and that the Commission does not 'own' them, it is simply a joint administrator.

Programmes types

3.7. Preparing a proposal for a formal change of the Convention, to be discussed in the ACP-CEE Council, would have taken quite some time, and given the urgency of most of the Import Programmes, it was judged to be more important to proceed as quickly as possible, with the approval of the ACP countries (NAO request) and the EDF Committee (Member states representatives).

The special features of certain programmes

Speed of execution

3.13. The Commission welcomes the Court's favourable comment on the pace of programme implementation but would point out the following:

(b) Payments of tranches of Import Programmes should not be seen as advances. The amount transferred do in fact leave the EDF accounts in support of the ACP Balance of Payments and are booked as such.

The interest generated by the foreign exchange deposits at commercial banks is not entered in the accounts by the central departments. This interest is the property of the ACP government and is considered as extra money for the programmes to be used for the same objectives.

The delegations have copies of bank statements

(c) Some projects have been closed and others started. In the case of Ethiopia, the import programme had two sources of financing and so the part financed with a grant was implemented before the loan-financed part.

(d) Some programmes were subject to a number of conditions that were bound to slow down the pace of implementation. For example, the purchase of medicines for the Mali programme was subject to annual programming.

Spending in excess of available appropriations

3.14. The Primary Commitment quoted in this article, is in fact only one element of a total commitment of 51 Mio ECU. Within this overall project originally indeed an amount of only 2.4 Mio ECU was set aside for fertilizer. However, during the implementation of the project priorities changed and the allocations to the different elements of the project were reviewed. As a result the amount provided for import of fertilizers was increased to 10.1 Mio ECU. The payments of 9.34 Mio ECU as quoted by the Court show the urgent need of the funds.

Programmes carried out in the franc area

3.16 – 3.17. Import programmes and the counterpart funds they generate are designed to serve macroeconomic objectives and (through counterpart funds) finance public spending.

This also applies to the franc area. The foreign exchange supplied by the Community programmes helps alleviate these countries' macroeconomic deficits.

The use of counterpart funds for public spending is closely monitored and checked. The examples cited by the Court fall squarely within the definition of public-sector restructuring and are thus eligible for financing with counterpart funds.

The Council Resolution of 31 May 1988 on the economic situation and adjustment process in sub-Saharan Africa and that of 27 May 1991 on the use of counterpart funds signalled the Council's wish that counterpart funds be used in support of structural adjustment. Well-coordinated use of such funds by the recipient countries under various budget headings helps make public spending more effective and equitable. Using them to cover operating deficits of public companies, state arrears, compensation to redundant civil servants and current budgetary expenditure fulfils these objectives perfectly.

The Commission thus believes that it has complied with the Council's guidelines and acted in the spirit of the Convention.

4. THE FINANCIAL MANAGEMENT OF PROGRAMMES

Implementation of the import programmes

4.2. The first thing to note is that the Court's comments on programme execution are reflected in the new documents on Lomé IV structural adjustment policy and the instructions drawn up by Commission departments since the Convention's entry into force.

Assessing the needs of beneficiaries

4.3. A changing situation during implementation of a programme can sometimes entail adjustments in the procedures and arrangements for implementation. Mistakes in evaluation, in implementation or in predicting the impact of the aid are inevitable.

In the case of Central African Republic the Commission has information showing that the oil products did enter the country.

4.4. In implementing the import programmes, the Commission also became aware of the difficulties cited by the Court. This experience has been taken into account in the preparation of the new programmes and in bolstering the day-to-day management of programmes under way. In 1992 and 1993 the Commission made very effort to train central staff, the Delegations and the national authorities in the use of the integrated approach and the logical framework in project cycle management.

Furthermore, since 1989 the Commission has organized special courses for its staff on structural adjustment, public expenditure analysis and financial management of counterpart funds.

4.5. The programme in question was PAMSCAD, which was to be financed by a number of different donors and was not at the time finalized.

The actual implementation did, indeed, go off the rails at some points owing to external factors that could not easily have been detected at the preparation stage.

Establishing programme objectives

4.6. It is true that the debt programme allocations were established mainly on the basis of macroeconomic criteria and the seriousness of the country's debt problem rather than the operations to be financed with the available funds.

4.7. The objectives laid down in the financing agreements cannot be specified in detail since the political and economic situation in the ACP countries means that room for manœuvre is required.

The setting-up of emergency stocks in Malawi, as provided for in the financing agreement, was abandoned for economic reasons and the objective was achieved by setting up a revolving fund after a new financing agreement had been concluded.

In Kenya, imports financed under the import programme were checked for, *inter alia*, eligibility, and were destined for the primarily cereals-based agricultural sector.

Wording of financing agreements

4.8. The wording of the financing agreements cannot be described as vague; in most cases general and special conditions were set out in detail. In some cases, however, it proved necessary to spell out the measures and conditions in annexed protocols of agreement.

In Kenya the programmes were focused on the private sector, so it is not surprising that the amounts per importer did not often exceed the threshold for restricted invitations to tender.

In Cameroon Articles 2.2.2 and 2.2.3 of Annex II to the financing agreement set out the arrangements for the establishment of counterpart funds. The entry of working capital in Sodecoton's books was noted.

In September 1993, after five marketing years, the working capital stood at:

Cash reserves (double signature account)	CFAF 3 652 m
Stocks (audited Sodecoton accounts)	CFAF 2 696 m
Outstanding (audited Sodecoton accounts)	CFAF 109 m
	CFAF 6 457 m

In the case of Uganda, the financing agreement specified the category where the currency was to be spent (Article II.3 of Annex 2).

In Mozambique the main sectors to benefit from the funds were specified in the administrative and technical provisions. However, in both these cases the designation of categories and sectors was indicative.

4.9. Adjustments in the use of counterpart funds in Central African Republic arose because of a component of the country's structural adjustment programme and were fully in keeping with the spirit of Council Resolutions authorizing such reorientation.

In response to the Central African government's non-compliance with the rules for use of counterpart funds, the Commission ordered an audit of the funds and immediately put the signing of the national indicative programme for the seventh EDF on hold. The government then complied.

Although a management agreement was concluded by the Commission Delegation and the Ugandan central bank, the Ugandan authorities unilaterally changed the conditions for establishing counterpart funds in practice. Such practices cannot be justified but the machinery in place should have ensured the establishment of the funds. The monitoring of imports was delayed by the government's blocking the recruitment of technical assistance for months (see also 4.44).

In Zambia the economic and financial conditions prevailing at NCZ justified the transfer of 7 Mio ECU from one financing agreement to another (see also 4.12).

In Madagascar the government's macroeconomic and financial situation justified the blockage of some of the counterpart funds initially allocated for social housing in agreement with the IMF and World Bank. Other donors, including some Member States, found themselves in the same position. There were therefore no grounds for referring the matter to the EDF or amending the financing agreement.

Identifying constraints and risks

4.11. The economic reforms pursued under structural adjustment programmes are aimed at dealing with just the sort of situation described by the Court. Price and quality controls on imports have usually been made on entry into the country. This has the advantage of guarding against abuse of the import programmes, although checks on loading would be preferable. Nonetheless, the cost of this type of check should be taken into account. The example of Malawi cited by the Court illustrates the importance the Commission attaches to checks on the price of imports.

4.12. In Mozambique some importers' lack of credit, combined with the time taken for delivery under EDF rules, led importers to direct their purchases to programmes of other donors or fail to take delivery of the goods.

The overhaul needed to ensure the viability of Zambia's NCZ, a key concern for the country's economy, was the subject of a KfW/World Bank-financed study. These same donors also undertook to finance the project, which was done partially.

In Malawi the funds were managed by the Smallholder Farmers' Fertilizer Revolving Fund SFFRF), which serves only small farmers. Moreover, the Fund's accounts were audited by the KPMG in 1991.

4.13. Experience of the first generation of import programmes showed the need for better management and this explains the more frequent use nowadays of technical assistance personnel and tighter monitoring by the central departments.

4.14. In early 1993 the Commission applied the integrated approach to its project preparation procedures. One of the main features of this approach is the integration of assumptions and risks into project preparation.

Implementation methods and procedures

4.15. The Commission believes that it did the right thing. Tenders are usually more advantageous if there is a 60 % advance (normally the rule for supply contracts). The economic reason for this is the interest rates practised by banks.

4.16 – 4.17. The Court's comments are a good illustration of the difficulties the Commission is up against in implementing the programmes. EDF rules have to be complied with on the one hand without losing sight of effectiveness on the other. The lessons learnt in implementing this first generation of programmes, which are the subject of the Court's report, have led the Commission to improve the rules and procedures for programmes financed under Lomé IV (see 5.19(a) to (c)).

The Commission's management difficulties are perfectly illustrated in paragraph 17 of the report where the Court remarks that the rules for setting-up counterpart funds are very strict in some countries but also point to the risks of relaxing them by agreeing to deferred payments, even though such measures have occasionally facilitated access to the programme.

Monitoring by the supervisory authorities

4.48 – 4.20. Since March 1992 the new Counterpart Funds Unit within the Directorate for Finance is responsible for not only the financing, accounting and administrative management of counterpart funds but also following up the paperwork and checking imports. The failings the Court noted in the Kenya operation were assessed and rectified following a mission in 1992.

In Ghana a procedure is under way (1993) to recruit technical assistance personnel to monitor import programmes and a monitoring committee has been set up with representatives of the Delegation and the various ministries concerned by the use of counterpart funds.

The difficulties the Commission encountered in selecting technical assistance personnel and drawing up terms of reference are mainly caused by the continuous changes under way in local government departments. Since 1992 special attention has been paid to this aspect of programme monitoring.

4.21. Since 1992 the Commission has strengthened the role and working of the monitoring committees, which are also supposed to report regularly on the work.

Implementation of the accompanying measures

4.24. The Delegation was kept abreast through weekly reports from Price Waterhouse and the documents supplied by the SGS on the imports. The overall management was in the hands of the technical assistance expert working with the National Authorizing Officer (see 4.40).

4.25. The situation in Cameroon has improved since the Court's visit. In 1992 the Commission concluded with the national authorities a detailed protocol on programme running. The grants were finally paid in 1993. A final evaluation (financial and impact) was carried out in May/June 1993 and the Commission is waiting for the report.

Consultations with the National Authorizing Officer

4.27. This criticism cannot be levelled across the board.

4.28. Kenya's import programme ran into some problems at the start-up stage but there were no serious delays in establishing counterpart funds, which were speedily transferred to the cash reserve provided for in the financing agreement.

The delay in implementing Mozambique's second programme was mainly caused by the country's administrative failings. The flow of information between those involved is poor or non-existent. This is why the Delegation has found it difficult to monitor the two programmes properly.

There was no plan for the use of counterpart funds generated by Cameroon's fertilizer import programme (PSIE): Article 2.2.3. of Annex 5 to the financing agreement specified that the funds should be used to set up a revolving fund to help finance a steady supply of fertilizers.

In Central African Republic the Commission financed an audit of the programme which focused on the establishment and use of the counterpart funds. The National Authorizing Officer supplied the documents relating to the entry of the goods in 1993.

In Uganda the delays in transmitting information are attributable to the central bank rather than the National Authorizing Officer.

4.29. In the case of Zambia the National Authorizing Officer and the Delegation were involved in regularizing the transfer to the NCZ as a loan after the event.

In Ghana the correct allocation of the counterpart funds was made a condition for payment of the second tranche of the general import programme, which led to rectifications in early 1993, thanks in part to the intervention of the National Authorizing Officer.

The correctness of certain practices

4.30. Whenever additional amounts had to be allocated to import programmes, these could not be considered to be new projects, as suggested by the Court. Additional support was given in the quoted cases, in order to assist the Governments to meet the same objectives and to master the same problems as defined under the original programmes.

Indeed, the device of raising the ceiling was often used to bridge the gap before the entry into force of Lomé IV.

4.31. The financing agreement for the petroleum import programme in Madagascar provided for the purchase of some 100 000 tonnes at an estimated cost of 14.9 Mio ECU. When the contract was awarded, the money available was enough to purchase about 113 500 tonnes. After that, fluctuations in the price of oil products and the US dollar forced the authorities to haver recourse to Article 223(6).

In the interests of efficiency, the Commission has always interpreted Article 223 of Lomé III as a way of using decommitted (unexpended balances of projects) or uncommitted (NIP) funds to cover the additional financing requirements of programmes under way. This interpretation of Lomé III proved to be useful and Lomé IV makes explicit provision for overruns and additional requirements to be financed from these two sources.

4.32. Concerning the case of Kenya the National Bank has made available in September 1992 to the Commission services the necessary documentation.

In the case of Uganda a protocol of agreement specified the following:

> 'An advance will be transferred to the account of the Bank of Uganda at the Sal. Oppenheim Bank in Cologne. Initially the advance will be the equivalent of 5 Mio ECU, but this amount may be increased in the light of indications of the likely rate of use of the advance.
>
> As purchases are made by the Bank of Uganda in the execution of the programme, justification of that use will be submitted to the delegation of the Commission in order that the use of the advance may be confirmed as appropriate, thus reducing the balance of funds for which justification is still to be made.
>
> Further advances will be made when requests to this effect are made by the Bank of Uganda, duly justified by explanation of the use of funds in earlier periods. The Bank of Uganda will accordingly present to the delegation of the Commission copies of the letters of credit, together with copies of the statement of transactions of the account at the Sal Oppenheim Bank in Cologne'.

Although not all the conditions were met in the past, the Commission has been in possession of the supporting documents since March 1993.

In the first import programme for Benin payments have been made on the basis of individual invoices, import by import, and as such there were no tranches.

The financing agreement provided for the payment of two tranches, the second being subject to an evaluation to be carried out in September 1989. However, the agreement was not signed until 1989 and made the payment of tranches redundant.

In the case of Malawi all necessary controls have been made, including inspection of the quantities, quality, price, origin and conformity with a list of eligible goods. A report to this effect has been realized by SGS.

It was the economic situation prevailing at the time that made the Commission agree to the release of the second tranche before the earlier imports have been fully accounted for.

In the case of Ghana, indeed the payment of the second tranche has been authorized based on an exceptional waiver of the requirements laid down in the agreement with the Government, given the fact that the Bank of Ghana was unable to produce in time the Statements of Account. Given the urgency of the matter and only for this second tranche this waiver has been authorized. No further tranches have been authorized without observing the requirements.

4.33. Aware of this problem, the Commission's Financial Control brought in a much tighter procedure for referrals a posteriori.

Since this procedure has been in use, 23 such referrals have been recorded under the EDF and two of them have not been approved.

Management of counterpart funds

4.34. The lack of clear rules for the management of counterpart funds under Lomé III has been remedied by a 1991 Council Resolution and resolutions of the ACP-EEC Council of Ministers, especially those on financial cooperation.

Each ACP State has undertaken to follow these policies and observe the financial management rules.

Inadequacy of the operating framework

4.35 – 4.36. Since 1992 details on the use to be made of counterpart funds and what action to take if one of the parties fails to comply are usually set out in the implementation protocols for these funds, which are often concluded after signing of the financing agreement.

Establishment of counterpart funds

4.37. Past payment delays have led to changes in the procedures for establishing counterpart funds under import programmes: now there is an almost direct conversion from ecus to the local currency after transfer of the aid to the recipient country's central bank.

4.38. A Commission mission to Mozambique in July 1992 led to the setting-up of a better management system that will ensure the recovery of unpaid counterpart funds and rectification of the anomalies noted by the Court.

4.39. A mission to Cameroon in March 1992 drew up a protocol for the operation of a revolving fund and a protocol of agreement on the recovery of the grants.

The grants owed by the government were recovered towards the end of 1992.

4.40. Together with several other donors EDF resources indeed have been committed in order to support the restructuring of NCZ. The support was given the form of an import programme. However, instead of the situation improving, it developped in the opposite direction. NCZ landed in a situation where it was in no position to honour obligations. Against that background a compromise was worked out: half of the money due would be transformed in capital and half would be reimbursed over a period of four years.

At that same occasion it was decided that EDF resources should never again be used for this difficult case for which apparently there is no cure.

4.42 – 4.43. The Commission sent missions to audit counterpart funds in Kenya (1992), Uganda and Ghana (1993), which led to rectification of the anomalies noted by the Court.

4.44. These delays in paying over the counterpart funds were also noted by a mission in 1993. After negotiations, the Bank of Uganda paid some Ush 1 billion to make good the depreciation, the amount calculated on the basis of the exchange rates in force at the time the counterpart funds should have been handed over.

4.45. Since 1991 the Commission has made sure that the implementation protocols for counterpart funds provide for interest-bearing accounts in the ACP countries.

Use made of counterpart funds

4.47. The Commission sent a mission in 1993 to identify and study in detail the anomalies noted by the Court, which will be corrected.

4.49 – 4.50. As explained above, since 1991 the Commission has made sure that the implementation protocols for counterpart funds make specific provision for the placement of funds and generation of interest.

4.51. Missions in 1993 to Ghana and Zambia regularized the situations described in the report; the amounts were incorporated into budgetary expenditure and allocated to priority sectors decided jointly by the Commission and the recipient country. For Zambia, see also 4.29.

4.52. The Commission did agree that there would not be a separate bank account for counterpart funds in Mozambique, since it was a proposal backed by all the donors. After the Court's visit, the Counterpart Funds Unit gained access to the 'MB10 all donors' account and a protocol of agreement was concluded to the effect that all counterpart funds generated by Community aid would pass through a special account before being paid into the MB10 account.

Since then, all the counterpart funds raised have been committed and paid in accordance with the new protocol.

4.56. The Commission Delegations are not equipped to bear the administrative burden of checking all the final beneficiaries. This type of programme is checked ex-post on the basis of budgetary execution (see also general comments in (c)).

Post-checking of all operations would call for an extensive monitoring and checking system that is unlikely to be cost-effective.

The use of technical assistance depends on the scale of the operation and the state of the national administration. Even so, its deployment is not in itself always enough to ensure the success of operations.

5. SUPERVISION AND EVALUATION OF PROGRAMMES

Supervision of programmes

Role of the delegations in the ACP countries

Feasibility studies

5.2. Acting on the results of a number of missions, the Commission has organized systematic ex ante analysis of the conditions under which Lomé IV programmes are executed. The conclusion of protocols of agreement governing programme management (often after the signing of financing agreements) has, since 1992, made it easier to identify problems on the ground.

Monitoring programme accounts

5.3. Since the creation of the Counterpart Fund Unit on 2 March 1993 considerable efforts have been made in the form of missions and training to develop and apply rigorous accounting systems for the management of counterpart funds by the delegations. The admfinistrative and technical provisions of the financing agreements at present provide for either mid-term or end-of-programme audits.

Assessment of the results

5.4. Evaluation of import programmes, which are a form of structural adjustment aid, is carried out at different levels:

1. macroeconomic: assessment of the structural adjustment programme as a whole;

2. specific, usually sectoral: use of the counterpart funds;

3. financial, accounting and administrative: checks on the proper application of the procedures for both foreign exchange and counterpart funds that have been decided jointly with the recipient.

The first level is necessarily accompanied by conditions of a relatively subjective nature so that the design of the structural adjustment programme can be assessed, while also leaving open the possibility of suspending aid to a country that keeps to the letter of the conditions but not the spirit and also minimizing the risk of inconsistency between the general framework and its main planks.

Note that there should be only one structural adjustment programme, generally IMF- or World-Bank-approved with consistent conditions.

This certainly does not mean that all the measures set out in the policy framework paper drawn up by the World Bank (often with the help of the Commission) have to be followed slavishly as regards either their substance (often vague) or scheduling.

When participating in the overall framing of reform programmes the Commission places the emphasis on adjusting the pace of reforms to the specific needs of the country and on the social and regional dimensions to adjustment.

The impact on importers, final beneficiaries and the target sectors is assessed by the Commission' Evaluation Unit. This is presently done a posteriori but the Commission is trying to start assessment during a programme's implementation.

Assessment of the results

5.5. Coordination between the various donors is one of the aims of the Commission's development policy. The Commission has played a leading role in the SPA, for example, its endeavours there led to the establishment of guidelines for counterpart funds by the SPA working party in 1990.

Furthermore, the Commission has taken the initiative in a number of ACP countries to conclude protocols of agreement on the management of structural adjustment programmes, examples being Rwanda in 1991 and Ethiopia in 1992. In other countries it has stepped up/initiated coordination with all donors concerned.

The role of Delegations in the implementation of programmes

5.7. The terms of reference for the recruitment and employment of technical assistance personnel are drafted in consultation with all the departments concerned, including the Delegations. Financial aspects, which were neglected in the past, are also covered; their coordination is the responsibility of the Counterpart Funds Unit. Preparatory missions take stock of the technical conditions prevailing in the country and the tasks to be assumed by TA personnel are targeted on real requirements. Among their tasks is the collection and processing of data for impact studies (see also 5.41 and 4.18).

5.8. The new payment procedures for import programmes and the conditions laid down in the financing agreements oblige the national authorities and Delegations to make regular progress reports on the programmes. All payments made under the programme, apart from the first transfer, have to be backed by supporting documents as specified in the financing agreement or protocols of agreement.

5.9. The situation has greatly changed since the early days of Lomé III. Structural adjustment policy is properly defined in Lomé IV and by various resolutions of the Council and the ACP-EEC Council of Ministers. Monitoring and direct assistance from the central departments have been stepped up. Further evidence of this change are the training courses on structural adjustment, public expenditure reviews and the management of counterpart funds. The central departments also organize on-the-spot visits to deal with any problems and help the Delegations and national authorities implement the programmes properly.

Supervision by the central departments

5.12 – 5.14. From 1990 the Directorate of Finance started to step up monitoring and supervision of counterpart funds by the central departments, culminating in the instructions of 14 March 1991 requiring, among other things, six-monthly reports from the Delegation on the setting-up and use of counterpart funds, plus bank statements. This approach has improved monitoring of programmes generating counterpart funds by the Delegations and the central departments.

Differences of opinion between departments

5.15. The measures taken since 1991 have reconciled the conflicting views that existed when programmes generating counterpart funds were introduced.

Instructions governing import programmes

Instructions for foreign currency programmes

5.19. The Commission adjusts the running of programmes to the administrative and commercial practices of the recipient country, in accordance with Article 20(1)(c) of the Lomé IV Internal Agreement.

(a) **and** (c) In many countries the services of procurement and monitoring agents are used systematically for certification of prices and quantities before loading and obtaining customs clearance certificates.

(b) The solvency of importers is ensured by the requirements concerning counterpart-fund payments. Importers often have to provide a bank guarantee, which minimizes the risk of non-payment of counterpart funds.

(d) Where there are many of final beneficiaries, the cost of exhaustive checks would not be worthwhile.

5.20. The Council resolution of 31 May 1988 on the economic situation and adjustment in sub-Saharan Africa and that of 27 May 1991 on the use of counterpart funds both favoured the use of counterpart funds to support structural adjustment. The instructions of 1991 and 1992 set out the procedures for providing such support.

The substance of memos on technical and practical aspects have been incorporated in protocols of agreement to flesh out the implementing procedures. A memo updating these arrangements is being drawn up by the Commission.

Instructions concerning the establishment and monitoring of counterpart funds

5.21. The financial departments have issued more detailed instructions to the Delegations concerning the financial monitoring of operations. They also receive assistance in the form of on-the-spot missions (see also 5.26(b)).

Instructions concerning the guidelines for using counterpart funds

5.23. The Commission's leading role in implementing the SPA meets the Court's concerns.

5.24. Fiscal policy, tariff regulation and related matters are frequently the subject of specific conditions of the structural adjustment programmes under Lomé IV. This is an area of World Bank competence but also of concern to the Commission, a concern reflected in the new financing agreements.

Central accounting system

5.25. Although the accounting, monitoring and auditing of counterpart funds has been improved and reinforced, the Commission admits that there are still some shortcomings and will act to rectify them.

It will persevere in its efforts to improve the monitoring and auditing of counterpart funds and has taken note of the Court's recommendations.

5.26. It should however be noted that the Commission services concerned perform the following monitoring tasks:

(a) The central services in Brussels assure the transfer of funds to the bank accounts agreed within the Financing Agreements. They inform the Delegations of these transfers. The Delegations in turn, follow the implementation of the programmes, inform the central services of the results and justify the use of funds provided for the import programmes. In fact it can be concluded that both Delegation and Headquarters possess the same date. Of course, it is possible that there is sometimes a certain time delay between the delegations and the central services in Brussels, but this can not be qualified as a 'lack of systematic comparison'.

(b) The management accounts of 31 December 1992 shed some light on the management of counterpart funds. Since 1991 Delegations send the central departments six-monthly reports on the establishment of counterpart funds and progress in implementing counterpart-fund generating programmes. This information is analyzed and set out in a report.

The counterpart funds unit has special responsibility for monitoring and auditing counterpart-fund generating programmes. In 1992/1993 the unit, with the help of an external bureau, carried out audit missions in 22 countries.

The 1993 management accounts give figures for the establishment and use of counterpart funds by country and by sector.

(c) All programmes are followed by both the delegations and the central services. Apart from this control, there are provisions in the different programmes, or in seperate contracts, to follow the implementation of the import programmes at detailed level: pre-shipment inspections, controls on arrival, specific Technical Assistance contracts to follow up, a detailed control of the bank statements involved etc. Indeed, successive tranche releases are conditioned upon justification of the use of earlier tranches. The structure of the accounting plan used under Lomé III did not provide an overall view of import programmes and the figures had to be combined beforehand. This problem has been dealt with under Lomé IV.

On-the-spot audits by the central departments

5.28 – 5.30. Impact studies are the job of the Evaluation Unit, while monitoring and audits are handled by the Counterpart Funds Unit, a role explicitly provided for in the internal memo of 2 March 1992 setting up the Unit (see also 5.26(b) and 5.41).

Evaluation of sixth EDF programmes

Evaluation of individual projects

5.33 – 5.40. It should be emphasized that Lomé III import programmes were a new experience for the Commission. The lessons learnt by the Commission in carrying out the 1988/1989 evaluations/audits enabled it to do a better job of preparing the Lomé IV programmes. Evaluation of this type of aid has improved with the recent introduction by the Commission of a methodological framework based on quantifiable and verifiable objectives over the whole project cycle. This makes for a better evaluation system.

5.38. The macro- and microeconomic effects of Kenya's Cereal Sector Reform Programme (of which the import programme was part) were evaluated in mid-1993.

5.41. The financial audits carried out by the Counterpart Funds Unit with the help of external consultants also look at the quality of the financial management and the organization.

In the present set-up, the Evaluation Unit is responsible for all evaluation and is not involved in audits. Economic impact studies should logically come afterwards, while a financial audit should normally be carried out during implementation and provide material for future evaluation.

Sectoral evaluation

5.42 – 5.45. The recommendations of the SOTESA report were studied by the Commission but not all were the subject of further instructions since political and economic developments led the Commission and other donors to rethink their support for structural adjustment programmes.

6. CONCLUSIONS

6.3. Two sets of instructions on the establishment, use and monitoring of counterpart funds were disseminated in 1991 and 1992 with a view to stepping up programme supervision. These instructions are currently being updated (see 2.16, 4.35 and 4.36).

6.4. Local currency operations are the responsibility of the national authorities, even though the Commission is involved in their running. Information on the management of counterpart funds was given in the 1992 management accounts, and more detailed data will be provided in 1993 accounts (5.20, 5.25 and 5.26).

6.5. Since all the programmes were proposed at the initiative of ACP States and approved by the EDF Committee, recourse to the ACP-EEC Council would only have drawn out the procedure and delayed implementation of the programmes (3.7).

6.6. Although the social dimension to adjustment was given full scope only under Lomé IV, it was not absent from the Lomé III programmes in that the projects financed with counterpart funds furthered NIP objectives.

The Commission's approach to conditionality under Lomé IV, including the social dimension, has been accepted by the World Bank and IMF and other donors.

6.7. The difficulty of implementing certain programmes made the Commission decide to transfer remaining Lomé III funds to Lomé IV programmes, so enabling it to commit them under the new arrangements (3.13).

6.8. (see 3.16 – 3.17)

6.9. Balance-of-payments aid has macroeconomic objectives and its effects on focal sectors of sixth EDF aid varies from country to country (4.3).

6.10 – 6.11. Delays in implementing some programmes and difficulties in assessing real needs are largely a direct consequence of the Commission's desire to adjust programmes already under way in response to new developments. Financing proposals and the corresponding agreements are meant to provide a flexible and adaptable framework. The objectives laid down are guidelines that may have to be adapted to circumstances (4.4).

Indeed, the agreements entered into after the conclusion of the financing agreements specified the action to take in response to the actual situation on the ground (4.7 – 4.9).

6.12. The Court's remarks highlight the difficulties faced by the Commission in implementing these programmes. Compliance with EDF rules has to be combined with operational efficiency. Here again, the experience gained with the first generation of programmes, which are the subject of the Court's report, has helped the Commission improve procedures and rules (4.10 – 4.14).

6.13. The payment of a 60 % advance for supply contracts is explicitly provided for in the regulations. The offer of such an 'advantage' usually makes for lower tenders (4.15).

6.15. Following the setting-up of the Counterpart Funds Unit in March 1992, management agreements and active monitoring committees have become general practice (4.20 – 4.21).

6.16. These failings were corrected under Lomé IV (4.22 – 4.29 and general comments in (c)).

6.17. Whenever additional amounts had to be allocated to import programmes, these could not be considered to be real new projects, as suggested by the Court. An additional support was given in the quoted cases, in order to assist the Governments to meet the same objectives and to master the same problems as defined under the original programmes. Before the release of new tranches the necessary controls undertaken by auditors T.A. — or the central services on the spot are made under Lomé IV. (4.30 – 4.33)

6.18. The Directorate of Finance and the departments concerned are trying to set up strict recovery procedures and tighten up management of future programmes in countries where there have been problems with late payment (4.37).

6.19. Wherever possible, the Counterpart Funds Unit and the departments concerned have tried, with varying degrees of success, to recover the sums due by importers and national authorities (4.42 – 4.45).

6.20. Increased monitoring mitigated to some extent the adverse effects of the late allocation of funds (4.47 – 4.50.).

6.21. Commission missions to Ghana and Zambia in 1993 regularized both the situations referred to by the Court, the amounts in question being entered in the country's budgetary spending and allocated to priority sectors selected jointly by the Commission and the recipient (4.51).

6.22. The shortcomings singled out by the Court have mostly been overcome. The Commission will make every effort to ensure continuing improvement (5.2 – 5.5 and 5.21).

6.23. (See 5.7)

6.24. The setting-up of the Structural Adjustment Unit has made it possible to establish an overall policy for the implementation of import programmes in the context of macroeconomic stabilization policies and structural reforms and in compliance with the political priorities of the Council and the Commission, namely:

— long-term development;

— internalization of programmes;

— adjustment of the pace of reform to the needs of the country concerned;

— the social and regional dimension to adjustment.

The Structural Adjustment Unit has also been a means of establishing a dialogue with the IMF and the World Bank on structural adjustment and the general macroeconomic environment in which the ACP States find themselves.

6.25 – 6.26. The creation of the Counterpart Funds Unit within the Directorate of Finance has made it easier to get to grips with the situation and problems on the ground and to draw up guidelines for the delegations.

Instructions tailored to the individual countries have been drawn up and will shortly be consolidated. Commission missions also check supporting documents to ensure that counterpart funds are used properly. Public expenditure reviews are only one aspect of this monitoring (3.16 – 3.17 and 5.5).

6.27. There will be a tightening-up of approach, scheduling of studies and quality of reports under the DG's new evaluation policy. Financial audits are no longer the responsibility of the Evaluation Unit and will be available for evaluation.

6.28. (see 5.42 – 5.44).