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## REPORT

by the Committee on Budgetary Control

on the proposal from the Commission to the Council concerning a Draft Financial Regulation applicable to Development Finance Cooperation under the Fourth Lomé Convention (COM(90) 243 final and COM(90) 446 final - C3-0341/90)

Rapporteur: Mrs Barbara SIMONS

C O N T E N T S

	<u>page</u>
Procedural page .....	3
DRAFT LEGISLATIVE RESOLUTION .....	4
Opinion of the Committee on Development and Cooperation .....	5
Opinion of the Committee on Budgets .....	11

By letter of 26 October 1990 the Council consulted the European Parliament on the Draft Financial Regulation applicable to Development Finance Cooperation under the Fourth Lomé Convention (COM(90) 243 final and COM(90) 446 final).

At the sitting of 19 November 1990 the President of the European Parliament announced that he had forwarded this proposal to the Committee on Budgetary Control as the committee responsible, and to the Committee on Development and Cooperation and the Committee on Budgets for their opinions.

At the meeting of 19 September 1990 the Committee on Budgetary Control had appointed Mrs SIMONS rapporteur.

At its meetings of 19-20 December 1990, 20-21-22 March 1991, and 23-24 April 1991 it considered the Commission's proposal together with the draft report.

At the last meeting it adopted the draft legislative resolution unanimously.

Present at the vote: Price, chairman; Wynn and Suarez Gonzalez, vice-chairmen; Simons, rapporteur; Dalsass (for Cornelissen), Goedmakers, Kellett-Bowman, Langes, Tomlinson and Theato.

The explanatory statement will be delivered orally during the sitting.

The opinions of the Committee on Development and Cooperation and the Committee on Budgets are attached.

The report was tabled on 24 April 1991.

The deadline for tabling amendments will appear in the draft agenda for the part-session at which the report is to be considered.

A

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament  
on the proposal from the Commission to the Council  
for a Draft Financial Regulation applicable  
to Development Finance Cooperation  
under the Fourth Lomé Convention

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM(90) 243 final<sup>1</sup> and the modified proposal COM(90) 446 final)<sup>2</sup>
- having been consulted by the Council (Doc. C3-0341/90),
- having regard to the Treaty establishing European Economic Community, and in particular Article 209 thereof,
- having regard to the opinion of the Court of Auditors,
- having regard to the report by the Committee on Budgetary Control on the legal basis of the proposal from the Commission to the Council and the modified proposal (Doc. A3-0341/90),
- having regard to the report by the Committee on Budgetary Control and the opinions of the Committee on Development and Cooperation and the Committee on Budgets (Doc. A3-0100/91),

A. whereas the Commission's proposal is in violation of the provisions of the EEC Treaty, and in particular of Articles 199 and 209 thereof,

1. Rejects the Commission's proposal;
2. Calls on the Commission to withdraw its proposal;
3. Asks the Commission to submit a new proposal taking into account the General Financial Regulation and the opinion of the Court of Auditors;
4. Instructs its President to forward this opinion to the Council and the Commission.

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<sup>1</sup> OJ C 165, 6.7.1990, p. 8

<sup>2</sup> OJ C 267, 23.10.1990, p. 14

**O P I N I O N**

(Rule 120 of the Rules of Procedure)  
of the Committee on Development and Cooperation  
for the Committee on Budgetary Control

Draftsman: Mr MENDES BOTA

At its meeting of 18 September 1990 the Committee on Development and Cooperation appointed Mr Mendes Bota draftsman.

At its meeting of 27 November 1990 it considered the draft opinion.

At the meeting of 19 December 1990 it adopted the conclusions as a whole by unanimously.

The following took part in the vote: Bindi, vice-chairman and acting chairman; Mendes Bota, draftsman; Fernandez Albor, Gutiérrez Díaz (for Vecchi), Christopher Jackson, Musso (for Ukeiwe), Perschau, Rossetti, Tsimas (for Laroni), Valent (for Napoletano), Van Putten, Verhagen, Verwaerde (for Galland) and Wynn.

A. OPINION  
OF THE COMMITTEE ON DEVELOPMENT AND COOPERATION

The Committee on Development and Cooperation,

- A. having regard to Opinion No. 5/85 of the Court of Auditors on the draft Financial Regulation applicable to the 6th EDF, its Special Report No. 4/88 on regional cooperation within the framework of the Lomé Conventions<sup>3</sup>, and its annual reports on successive financial years,
- B. having regard to the opinions of the Committee on Development and Cooperation on the management of EEC aid by the European Investment Bank and on the discharge in respect of the 1988 financial year<sup>4</sup>,
- C. having regard to the European Parliament's resolutions of 21 February 1986 on the Draft Financial Regulation for the Sixth EDF, and of 11 July 1990 on Parliament's strategy in relation to the Inter-Governmental Conferences,
  1. Emphasizes the need to take due account of the fact that it is essential to ensure the implementation of an effective development policy which conforms to the objectives of the 4th Lomé Convention through the drafting and implementation of the Financial Regulation which is to accompany the new agreement;
  2. Reiterates in this connection its deep concern at the excessively slow rate of disbursement of programmable aid under the EDF, and in particular under the 6th EDF;
  3. Takes the view that the slow rate of disbursement is likely to form an obstacle to the effective implementation of development efforts and considers that the rate of disbursement could be accelerated without endangering the principles of sound financial and accounting management;
  4. Emphasizes in particular that the new provisions of the 4th ACP-EEC Convention relating to structural adjustment support are based on quick disbursement, which Article 244 (h) of the Convention describes as an important feature of support programmes; considers it essential, therefore, that the provisions and the practical implementation of the Financial Regulation should meet this objective;
  5. Reiterates Parliament's request for the inclusion of provisions which introduce, and lay down rules for, monitoring by the Court of Auditors of the use made by the European Investment Bank of EDF funds; stresses that these provisions would help it to exercise its powers of monitoring, assessment and budgetary discharge;
  6. Considers, more generally, that monitoring of development projects should be carried out not by the European Court of Auditors alone, but by an inspectorate to be set up specifically for that task (and semi-independent of existing EC Institutions) on the basis of the following criteria:

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<sup>3</sup> OJ No. C 361, 31.12.1985 and No. C 188, 18.7.1988

<sup>4</sup> Opinion on the discharge in respect of the 1988 financial year, opinion by Mrs Simons, PE 137.025/fin., 24.1.1990.  
Opinion on the management of EEC aids by the EIB, opinion by Mrs Schmit, PE 98.244/fin., 30.9.1985.

- initially: does the project comply with EC development-cooperation criteria?;
  - during operation: monitoring of funding and for compliance with objectives;
  - subsequently: assessment, including 'lessons for the future';
7. Deplores the withdrawal of Article 72(2), which was at last introducing the organization of monitoring in accordance with the wishes of the European Parliament;
  8. Takes the view that the inclusion of the text of the declaration adopted by the Bank, the Member States and the Commission on signing the internal agreement relating to the Fourth Lomé Convention in the draft Financial Regulation constitutes an acceptable minimum for the European Parliament; expressly requests the Commission, therefore, to include this text;
  9. Notes with satisfaction the new reference made to the role of regional authorizing officers; stresses in this connection the specificity of regional cooperation measures and their importance in the context of ACP-EEC cooperation objectives;
  10. Notes, moreover, that the proposed draft regulation is essentially identical to the previous Regulation although the Committee on Development and Cooperation emphasized at the time of the discharge relating to the implementation of the European Development Fund in the 1988 financial year that a review of implementation procedures was essential if the administrative difficulties impeding the efficient and effective management of EDF funds were to be overcome;
  11. Considers it urgently necessary to carry out such a review of the implementation procedures, from a technical point of view, in order to identify possible improvements leading to new provisions to be incorporated in the Financial Regulation and those relating to the implementing rules for that regulation;
  12. Emphasizes, in particular, the importance of considering the possibility of enlarging the powers of the delegations in each of the ACP countries with regard to local payments;
  13. Considers that the Community is the only authority which is internationally responsible for granting the ACP countries the entire financial assistance provided for in Lomé IV in accordance with the terms of Article 231 of the Convention and Article 1 of the relevant Financial Protocol; thus the internal agreement cited by the Commission as the legal basis for the present draft regulation will in principle always have to constitute a Community act insofar as it forms part of the Community's general objectives and it defines the measures for implementing a Community obligation; Article 209 of the Treaty must therefore remain the appropriate legal basis for the draft regulation;
  14. Calls on the Committee on Budgetary Control to incorporate these various points in its report.

B

EXPLANATORY MEMORANDUM

The proposed Financial Regulation follows on from the Financial Regulation of 11 November 1986 applicable to the 6th European Development Fund, the duration of application of which was linked to that of the 3rd Lomé Convention<sup>5</sup>.

The objective of this type of text is to establish, in accordance with recognized budgetary and public finance rules, the necessary provisions for the collection of revenue, the commitment and payment of expenditure, and the implementation of the various EDF and European Investment Bank (EIB) operations from a budgetary and accounting point of view.

Moreover, full account must be taken of the requirements imposed by the implementation of a development policy. This is precisely what the Committee on Development and Cooperation wishes to emphasize in this opinion.

Furthermore, it should be pointed out that the Committee on Development and Cooperation has for a number of years been seriously concerned at the low level of disbursement from EDF funds.

In its opinion on the discharge in respect of the EDF for the 1988 financial year, the Committee on Development and Cooperation drew attention to the excessively slow rate of disbursement of programmable aid under the 6th EDF and emphasized the need to speed up the rate of disbursement of EDF funds. In this connection it should be recalled that, according to the information supplied by the Court of Auditors, the level of disbursement of the 6th EDF at the end of its 3rd year of implementation amounted to 17%, of which only 5.6% went towards programmable aid.

The Committee on Development and Cooperation also pointed out that 'a review of the implementing procedures is necessary in order to overcome many administrative obstacles which currently prevent the efficient and effective use of EDF funds'<sup>6</sup>.

The Committee on Development and Cooperation is of course fully aware of the fact that the rate of implementation of the EDF basically depends on the rate of implementation of the various phases of the projects preceding authorization and payment, beginning with the programming of aid. It is nevertheless true that everything possible needs to be done at the level of financial implementation procedures to help improve the rate of implementation of ACP-EEC cooperation.

With this in mind, we note that the general structure of the text remains the same as for the previous Financial Regulation (financial system, management of the EDF, implementation measures, enforcing bodies, presentation and auditing of accounts, general and final provisions). Essentially the provisions in the new text are identical to those in the previous Financial Regulation.

However, a number of changes have been introduced to take account of changes in the Fourth Lomé Convention.

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<sup>5</sup> OJ No. L 325, 20.11.1986

<sup>6</sup> Opinion on the discharge in respect of the 1988 financial year, by Mrs Simons, PE 137.025/fin., 24.1.1990



Thus, the provisions relating to special loans have disappeared, since the new Convention now speaks only of grants.

Moreover, a new article has been introduced dealing with structural adjustment support. It lays down that 'contracts concluded in the framework of sectoral import programmes relating to the provision of foreign exchange may be expressed in currencies other than the ECU or those of the ACP States, such other currencies to include those of countries which are not contracting parties to the Convention'.

In this connection it must be recalled that the Convention emphasizes that quick disbursement shall be an important feature of support programmes (Article 244(h)). This objective must be taken into account in particular for the purposes of practical financial implementation.

Moreover, the text expressly extends the provisions relating to the chief authorizing officer to regional authorizing officers (cf Article 164(f) of the new Convention).

An important change in the initial text of the draft regulation compared with the previous versions, as forwarded by the Commission to Parliament<sup>7</sup> for information, relates to the monitoring by the Court of Auditors of the use made of EDF funds by the European Investment Bank. Provision is now made for such monitoring which is governed by specific and detailed rules.

This is important since under the new Convention the Bank manages 825 m ECU in the form of risk capital.

In this connection it should be recalled that the Committee on Development and Cooperation and the European Parliament have drawn attention on several occasions in the past to the lack of information on, and inadequate monitoring of, the use of EDF resources managed by the European Investment Bank<sup>8</sup>. On this point the new text provided, in particular, for the possible participation of the Court of Auditors in on-the-spot checks of the EDF resources managed by the EIB. The Court of Auditors saw the possibility of drawing up special reports on this aspect of the Bank's management.

Unfortunately, the Commission later modified its initial draft Financial Regulation<sup>9</sup> on this very point by simply deleting all the new provisions which would finally have introduced monitoring by the Court of Auditors.

The letter from the Council to Parliament conveying its decision to consult Parliament on the draft regulation<sup>10</sup> gives an explanation for this deletion and includes a new element. The Council emphasizes that by making this modification the Commission is adapting its initial draft to the provisions of the new internal agreement relating to Lomé 4 signed last July by the representatives of the Member States meeting within the Council. It points out that on that occasion the Bank, the Member States and the Commission adopted the following declaration:

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<sup>7</sup> COM(90) 243 final and covering letter of 28 June 1990 from the General Secretariat of the EEC Commission

<sup>8</sup> Opinion on the management of EEC aids by the EIB, by Mrs Schmit, PE 98.244/fin., 30.9.1985

<sup>9</sup> COM(90) 446 final

<sup>10</sup> Letter of 26 October 1990

'The Court of Auditors may participate in on-the-spot monitoring carried out by the Bank's monitoring bodies for operations financed by the resources of the fund which it is responsible for managing, according to the procedures to be agreed on at a later date by the Commission, the Bank and the Court of Auditors.'

Under these conditions, the about-turn on an issue which is of considerable importance to Parliament is to be deplored and indeed condemned. It should also be emphasized that, apart from raising queries as to its legal scope, the above declaration is much more restrictive than the text of Article 72(2) of the Commission proposal. This article not only granted the Court of Auditors a power of initiative as regards the checks which are to be carried out but also set out detailed arrangements for such checks. One may wonder why the Commission does not consider itself able to adopt at least the text of the declaration in its draft Financial Regulation. This would constitute the minimum degree of progress which Parliament should consider itself entitled to demand.

**OPINION**

**(Rule 120 of the Rules of Procedure)**

**of the Committee on Budgets**

**for the Committee on Budgetary Control**

**Draftsman: Mrs Annemarie GOEDMAKERS**

At its meeting of 19 September 1990 the Committee on Budgets appointed Mrs GOEDMAKERS draftsman of the opinion.

At its meeting of 3 December 1990 the committee considered the draft opinion and adopted the conclusions unanimously.

The following took part in the vote: von der Vring, chairman; Lamassoure, first vice-chairman; Cornelissen, second vice-chairman; Goedmakers, draftsman; Böge, Colom I Naval, Desama, Langes, Larive (for Holzfuß), Marques Mendes, Miranda da Silva and Napoletano (for Colajanni).

## I. BACKGROUND

The European Parliament, on the initiative of its Committee on Budgetary Control, first requested the Council for formal consultation on the proposal for a Financial Regulation, on the basis of Article 209 of the EEC Treaty, when the Second Lomé Convention entered into force.

Its request was not met until 1985, following the implementation of the Sixth European Development Fund. A report by the Committee on Budgets (Rapporteur: Mr PASTY) proposed altering the legal basis for the proposal for the Financial Regulation. As a further consequence, it called for the inclusion of the Development Fund in the general budget of the European Communities. The arguments on which these demands are based are clear:

- Full control over expenditure for the ACP States can only be guaranteed by inclusion in the general budget.
- The Convention with the ACP States constitutes a Community activity which must be subject to the financial and budgetary provisions of the Treaty. This requirement is all the more justified as all other cooperation agreements with third countries are included in the budget of the European Communities.
- The present legal basis, the Internal Agreement on the financing and administration of Community aid, contravenes Community rules and in fact reflects the desire of the Member States to continue to retain this major part of Community development policy under 'national authority', thereby keeping it as an extended arm of national development policy.

## II. THE CURRENT SITUATION

The European Parliament has been duly consulted by the Council on the new Commission proposal for a Financial Regulation for the Seventh European Development Fund. The proposal consists almost entirely of matters or arrangements relating to the implementation and control of this new agreement. It is therefore fitting that the Committee on Budgetary Control should be the committee responsible for this matter. It is for the Committee on Budgets to deliver an opinion.

Given the imminent Inter-governmental Conferences and the European Parliament's proposals to extend the process of democratization in the Community, in conjunction with increased powers for the European Parliament, the time has come for the European Parliament to issue an emphatic restatement of its demands for the Development Fund to be included in the general budget and to fight for their implementation. The Committee on Budgetary Control supports these demands and will seek, as a first step, to have the legal basis for this Commission proposal changed. Pursuant to Rule 36(3) of the European Parliament's Rules of Procedure, it has asked the Committee on Legal Affairs for an opinion on the matter. Should the committee deliver a favourable opinion, the Committee on Budgetary Control would table an interim report, for adoption at the part-session in December, containing the above-mentioned demands. The negotiations with the Commission and the Council which would follow would then have to include the overall problem of budgetization.

### III. THE POSITION OF THE COMMITTEE ON BUDGETS

In its Working Party on the Future Financing of the Community, the Committee on Budgets has dealt in detail with the question of Community activities which have not so far been included in the budget. The arguments for inclusion in the budget are set out, once again, in detail in a working document by the rapporteur, Mr PASTY. The demand was officially repeated in an interim report by Mr COLOM I NAVAL, adopted by the European Parliament on 22 November 1990.

In a letter to the Committee on Institutional Affairs, the Committee on Budgets, acting on the conclusions of the working party, gave substance to the demand for the inclusion of the European Development Fund in the budget of the Communities with a proposal to amend Article 199. The European Parliament adopted the proposals in the MARTIN report on 22 November 1990.

The time has now come, without blocking the implementation of the new European Development Fund, to meet the European Parliament's long-standing demands in the context of negotiations on the revision of the Treaties.

### IV. CONCLUSIONS

The Committee on Budgets

- notes with satisfaction that a long-standing demand of the Committee on Budgets has been met by the Commission proposal and there is now provision for payment of Member States' contributions in ECU;
- takes the view that the Internal Agreement on the financing and administration of Community aid for the ACP States is not a reliable basis for the implementation of development aid to the ACP States associated with the Community;
- calls, therefore, as a first step, for the legal basis for the Commission proposal for a Financial Regulation applicable to Development Finance Cooperation under the Fourth Lomé Convention to be changed;
- takes the view that, as a second step, the relevant articles of the Treaties must be amended, in order to make possible the inclusion of the Development Fund in the general budget of the European Communities;
- therefore supports all the efforts and measures of the Committee on Budgetary Control aimed at achieving this goal; in this connection a special provision is required to ensure that the implementation of the new development fund is not blocked.

